



Appeal Decision

Site Visit made on 24 May 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2021

Appeal Ref: APP/P0240/W/21/3269014

Land east of Moor Lane, Maulden

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Summerfield, Mr S Summerfield and Mrs H Davidson against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/02721/FULL, dated 4 August 2020, was refused by notice dated 13 November 2020.
 - The development proposed is the erection of three self-build dwellings for each of the Applicants with private accesses off Moor Lane, associated landscaping and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Pre-Submission version of the emerging Central Bedfordshire Local Plan 2015-2035 (the CBLP) was submitted to the Secretary of State in April 2018. The examination process is continuing and, whilst it is my understanding that proposed modifications have been consulted upon, there is nothing before me to indicate that the CBLP is currently at a stage that should attract anything more than limited weight. I shall consider the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon biodiversity;
 - The effect upon highway and pedestrian safety; and
 - Whether or not the proposal should make provision for affordable housing.

Reasons

Character and appearance

4. Policy DM4 of the Central Bedfordshire Core Strategy and Development Management Policies (November 2009) (the CBCSDMP), through the identification of Settlement Envelopes, differentiates the built-up areas of settlements from areas of countryside situated beyond. The site sits just outside the defined Settlement Envelope for Maulden and thus in the countryside as defined in local planning policy terms.

5. The National Planning Policy Framework (February 2019) (the Framework) does not imply that protection from development be given to the countryside in its totality, rather that valued landscapes should be protected and enhanced and that recognition should be given to the intrinsic character and beauty of the countryside. In comparison, Policy DM4 is more restrictive in generally seeking to control development beyond defined Settlement Envelopes and, on this basis, is a policy that attracts moderate weight. Indeed, whilst the loss of undesignated countryside is still capable of being harmful, the fact that the site falls outside of any defined Settlement Envelope is not determinative.
6. Whilst the evidence before me indicates that differing degrees of weight have been applied to Policy DM4 by other Inspectors when considering proposals upon other sites, I am satisfied that the policy attracts moderate weight for the purposes of determining this appeal.
7. The site is located in the 'Mid Greensand Ridge' landscape character area (the LCA), which is characterised, in-part, by undulating landforms, a strong wooded context, an array of arable/agricultural land and variable field boundaries. The site, which is comprised of a sloping grassed field often edged by different elements of boundary planting, is broadly reflective of the LCA's overarching attributes.
8. The section of Moor Lane (the Lane) that runs south-eastwards from the frontage of an adjacent development¹ of nine houses currently under construction (the 9-unit development) comprises a narrow rural route heavily influenced by surrounding planting, undeveloped land, allotments and only sporadic examples of built development. In this context, the appeal site is read and experienced as the commencement of the countryside when travelling on the Lane out of Maulden.
9. Notwithstanding any suggestion made to the contrary, the termination of the Lane does not represent the natural edge to the built-up part of the village. Whilst a residential property sits alongside the site's south-eastern boundary, it makes up part of a loosely formed cluster of development located in a rural location. To fill the gap between this cluster and the 9-unit development with three large-sized dwellings, even if to come forward at a low-density, would have a detrimental urbanising effect. This is most particularly when noting the raised level of the site relative to the Lane and the stretches of established planting that would need to be removed to provide three separate access points to the site.
10. Indeed, the development would be experienced as an unsympathetic excursion into the open countryside and result in the loss of rural landscape character on a localised basis. The scheme would thus cause harm to the character and appearance of the area. The proposal conflicts with Policies CS14, CS16, DM3, DM4 and DM14 of the CBCSDMP and with the Framework in so far as these policies require proposals to respect local context and the varied character and local distinctiveness of the District.

Biodiversity

11. As set out in the Framework, opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially

¹ Planning permission reference: CB/20/00306/FULL

where this can secure measurable net gains for biodiversity. As referenced by the Council's Ecologist, the site offers semi-natural habitats. I observed the site, for the most part, to be comprised of semi-improved grassland providing seemingly low levels of diversity and habitat value.

12. Whilst it is the case that some elements of established hedgerow would require removal to provide for the intended access arrangements, such clearance works would realistically be limited and have modest implications in a biodiversity context. Furthermore, particularly given the low-density nature of the scheme, a range of opportunities to provide replacement/supplemental native planting to boundary lines and residential garden areas would avail. Indeed, this is illustrated indicatively upon the submitted planning and surface treatment layout plan.
13. Other potential biodiversity enhancement measures have been mooted (including bat, bird and insect boxes, a sparrow terrace, a hedgehog dome and a hibernaculum for reptiles) and I am satisfied that a planning condition could suitably be imposed to secure confirmation of the enhancement measures intended (and their subsequent implementation) in the interests of delivering biodiversity net-gain.
14. It has been brought to my attention that the site lies in the Greensand Ridge Nature Improvement Area and in relative proximity to the Duck End Nature Reserve and County Wildlife Site. Whilst this underlines the importance of robust consideration being given locally to habitat and biodiversity matters, when factoring in the specific makeup of the site/scheme, these locational factors do not justify a negative conclusion on this main issue.
15. For the above reasons, I find that the proposal would have an acceptable effect upon biodiversity. The proposal accords with Policy DM15 of the CBCSDMP and with the Framework in so far as these policies set out that, for developments where there is a need to protect or enhance biodiversity, developers will be required to carry out such work and/or make contributions to secure longer term benefits for wildlife.

Highway and pedestrian safety

16. From the point where the Lane forks (at the location of the 9-unit development) to the point where it terminates after having run the site's frontage is of particularly narrow specification. The carriageway is wide enough to accommodate only single vehicle movements and the route does not offer any formal footways for pedestrians. It serves several other residential properties and various smallholdings/allotments and leads to designated public rights of way. I do not accept that this last stretch of the Lane is currently extremely lightly trafficked. Indeed, I encountered multiple vehicles using the route during my inspection as well as numerous pedestrians.
17. Whilst the stretch of the Lane in question currently operates without formal passing places, this is clearly not an ideal situation. This is reflected in representations received from local residents, where the difficulties and safety implications of often being unable to attain unobstructed access have been referred to. The proposal, through the introduction of trips associated with the occupation of three large dwellings, would exacerbate these existing issues. Indeed, the intended intensification of the Lane's use would not be negligible (as suggested by the appellants).

18. Vehicles using the Lane realistically travel at slow speeds. Indeed, the route's specification, being narrow and bending in alignment, would influence driver perceptions and promote low speeds. This is consistent with my own experiences at and in proximity to the site. Full 2.4m x 43m vehicular visibility splays at the site's intended access points would be attainable only when factoring in third party land. Nevertheless, I am content that splays of a sufficient extent to suitably guard against the threat of direct conflict occurring between egressing vehicles and other highway users (specifically at the site's points of access) would realistically avail in practical terms.
19. However, this does not mean to say that highway and pedestrian safety would be safeguarded. Indeed, the proposal would noticeably intensify the use of a route that is unable to accommodate simultaneous vehicle movements and that is not served by footpaths for pedestrians. Given the tight and often bending nature of the Lane, motorists would not consistently be able to perceive oncoming vehicles/obstructions from anything other than close distances. This aligns with my own experiences at the site. The proposal would promote the need for evasive/reversing manoeuvres having to occur in a very constrained environment, which raises clear highway and pedestrian safety implications and that would be to the detriment of free-flowing traffic.
20. For the above reasons, the proposal would prejudice highway and pedestrian safety and thus cause harm. The proposal conflicts with Policy DM3 of the CBCSDMP and with the Framework in so far as these policies require proposals to enhance community safety and incorporate appropriate access. Indeed, whilst the residual cumulative impact of the scheme upon the road network would not be severe, the proposal would have an unacceptable impact on highway safety.

Affordable housing

21. Policy CS7 of the CBCSDMP indicates that new housing development should provide an element of affordable housing and that this should be 35% or more of the proposed units. Consistent with the requirements of the Framework, it is my understanding that the Council does not normally pursue the provision of affordable housing with respect to residential developments of fewer than 10 units.
22. The planning application that is the subject of this appeal was preceded by what I understand was an application² for an identical form of development. That previous application, although ultimately withdrawn, was submitted at the same time as a successful application³ for the 9-unit development that is situated adjacent. At that point in time the land that was the subject of both applications fell under the same ownership and it has been stated by the Council that the sites were considered as one. This approach, it has been suggested, should continue to apply when assessing what would constitute an appropriate level of affordable housing provision in this instance. Indeed, when considered cumulatively, a development of 12 units would generate an affordable housing requirement.
23. However, it is apparent that the 9-unit development was allocated for residential development under a specific adopted site allocation (HA24). This

² CB/20/00307/FULL

³ CB/20/00306/FULL

sets a very different policy context when comparing the two sites in question. Indeed, I do not consider that the 9-unit development site and the appeal site should be considered to comprise a single site for planning purposes.

24. It is also the case that three large self-build dwellings set in a linear formation are proposed. The 9-unit development is instead comprised of a far higher density of smaller housing units, some of which are set behind frontage development. The makeup of the 9-unit development is clearly different to the appeal proposal. Thus, even when noting the lack of any clear physical boundary between the two sites and the ownership/planning history as discussed above, the two schemes do not obviously form a single development.
25. A 2020 appeal decision⁴ has been brought to my attention, which relates to a site situated elsewhere in the District where the Inspector found the proposal before her to form part of a larger residential development. However, as cited in her reasoning, the scheme fell to be considered in the same policy context as the relevant adjacent development. This is an important distinction when making comparisons to the circumstances now before me. Indeed, for this reason, the 2020 appeal decision is of limited relevance.
26. For the above reasons, the proposal is not required to make provision for affordable housing and would thus not cause harm in this context. The proposal accords with Policy CS7 and with the Framework in so far as these policies set out that the provision of affordable housing should not be sought for residential developments that are not major developments.

Planning Balance

27. For the avoidance of doubt, on the basis that the most important policies for determining this appeal are not out-of-date, I have not applied the presumption in favour of sustainable development.
28. The site does not occupy an isolated location in either a physical or functional sense and the proposal would introduce three additional housing units. The Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. Nevertheless, whilst likely able to be built-out quickly, three additional units would not make a clear or noticeable difference to the District-wide housing supply situation. The benefits associated with the delivery of three new housing units attract relatively limited weight.
29. The proposal is for three self-build units and, on this basis, the scheme would specifically cater for persons wishing to build their own home. However, merely three plots are proposed. Furthermore, there is no unilateral undertaking (or similar) before me to provide full confidence that self-build development would ultimately come forward. For these reasons I attach limited weight to this anticipated benefit of the scheme.
30. When noting the relatively limited size of the site and the removal of existing elements of hedgerow necessitated, any net-gain in biodiversity ultimately deliverable would be anticipated to be modest and attractive of limited weight as a scheme benefit.

⁴ APP/P0240/W/20/3247284

31. The scheme's benefits, considered cumulatively, would be relatively modest and would be insufficient to outweigh the significant harms and associated policy conflicts that I have identified. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

32. Whilst I have found that the proposal would have an acceptable effect upon biodiversity and is not required to make provision for affordable housing, I have identified that significant harms would be caused to the character and appearance of the area and as a result of the scheme prejudicing highway and pedestrian safety. These harms are the overriding considerations in this case. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR