



Appeal Decision

Site visit made on 9 May 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2022

Appeal Ref: APP/P0240/W/21/3285673

Bradwell House, Knolls View, Totternhoe, DUNSTABLE LU6 2BT

- 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 The Trustees of Bradwell House Estate, c/o Austin and Carnley Solicitors, against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/00092/FULL, dated 3 February 2021, was refused by notice dated 7 May 2021.
 - The development proposed is the demolition of the existing dwelling and erection of three dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Central Bedfordshire Local Plan (LP) was adopted in July 2021 after the Council made its decision. The Council refers to policies T10 and BE8 of the 2004 Local Plan within its reasons for refusal. It has since stated that these policies have since been superseded by policies T2, T3 and HQ1. These cover similar issues as those superseded. The Council has also stated that policy SP4 is now engaged in relation to development in the Green Belt. I shall take these policies into account in my decision without prejudice to any party.
3. The Totternhoe Neighbourhood Plan (NP) has recently been adopted. I have paid regard to the policies of this plan where appropriate without prejudice to any party.
4. English Nature has recently announced that, following evidence gathering in connection with the preparation of Decorum Borough Council's Draft Local Plan, a new Zone of Influence (ZOI) has been established around the Chilterns Beechwoods Special Area of Conservation (SAC). Standing advice is that all development that would result in a net increase in dwellings, within the ZOI, shall be subject to Habitat Regulation Assessment (HRA) and Appropriate Assessment (AA). As I am required to undertake this assessment as Competent Authority this matter shall become a Main Issue for the decision.

Main Issues

5. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt;

- The effect of the proposed dwellings on the character and appearance of the area;
- The effect of the proposed development on the integrity of the Chiltern Beechwoods SAC;
- The effect of the proposal on highway safety, with respect to the use of the access and on-site parking/manoeuvring; and
- if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

6. LP Policy SP4 relates to development in the Green Belt. This states that such development will be assessed in accordance with national policy. The National Planning Policy Framework (The Framework) explains that the Government attaches great importance to the Green Belt and that substantial weight is to be afforded to any harm. Paragraph 149 establishes that new development would be inappropriate unless it meets a listed exception. Paragraph 149(e) states that limited infilling in villages is not inappropriate development.
7. The site is adjacent to residential plots to both sides and is itself residential in use. There is woodland and a paddock area to the rear of the site with fields beyond. The site is opposite a close-knit grouping of semi-detached and terraced dwellings and adjacent to residential plots. It is therefore a large single-dwelling plot, adjacent to a well-established pattern of tightly drawn residential frontages. Due to its central location within the settlement the appeal site would have a clear functional relationship with the rest of the village. I am therefore satisfied for policy purposes that the site is within the village.
8. The companion text to policy SP4 defines infill development as “small scale development for up to two dwellings in a small gap in an otherwise built-up frontage, utilising a plot [that would] complement the surrounding pattern and grain of development”. Although not policy in itself, this provides a useful definition to explain how the Council apply the policy. As such, the question of infilling is a matter of planning judgement, taking into account the size and location of the development and its relationship to existing built form.
9. The proposal would result in the development of three large dwellings, in a crescent formation, around the frontage. The existing dwelling, located in the middle of the site would be demolished. The layout shows space to the side and rear of the three plots designated as paddock and other non-residential use. Consequently, the gap retained to the side of plot three indicates a form of development that would not fully infill the gap between existing buildings and plots. Furthermore, the ‘gap’ formed by the appeal site includes a wide frontage that is larger than can be readily defined as “small” in comparison to the size of the village the site is within.
10. Although I find the Council’s reference to two dwellings to be overtly prescriptive, I do concur with it that the site would not be a small gap.

Furthermore, the local grain of development consists of relatively narrow plots with buildings leaving limited space between them. In contrast, the proposed dwellings would be wide on generous plots and thereby would not follow the established grain of local development. Therefore, for the above reasons, the site and form of housing would not be deemed to be an infill development and would not represent limited infilling within a village.

11. As it has not been demonstrated that the proposal would be any of the exceptions listed in Paragraph 149 of the Framework, it would amount to inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

Effect on openness

12. Paragraph 137 of the Framework identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. The openness of the Green Belt has both spatial and visual dimensions. The appeal site is relatively enclosed with parts of the frontage hedging being retained. However, further views into the site would be revealed following the removal of much of the trees and hedging around the frontage. Although of limited quality the removal of the trees would substantially alter the appearance of the frontage and reveal new views of the proposed scheme. The proposed dwellings would also be clearly visible from several private views from the adjacent plots, especially from the front and side of 228 Castle Hill Road.
13. The proposed dwellings would be close to the highway, wide and obtrusive in this landscape setting. It would create a near continuous line of built form that would fundamentally alter the appearance of the site and its current sense of openness. Therefore, the proposal would result in significant visual harm to the openness of the site. Furthermore, in spatial terms individually, and in combination, these would represent a significant intrusion into the openness of the site and the surrounding Green Belt. Consequently, the proposal would have a significantly harmful impact on the openness of the Green Belt.

Character and appearance

14. Totternhoe is a small village, with views from the site's frontage of open countryside to the west and woodland to the southeast. The settlement is enclosed by a largely verdant and open setting. The majority of dwellings that address Knolls View have narrow plot widths and a continuous building line. Plots along Castle Hill Road are more dispersed with a staggered building line creating a wider range of styles and less ordered pattern of development. The site is enclosed by a dense tree and hedge screen, with a gap in the centre of the frontage for the existing driveway. The frontage limits views through the site. However, it is nevertheless apparent that the site is largely undeveloped and as a result makes a positive contribution to the character and appearance of the area.
15. Existing housing within the settlement consists of various styles and scales although the majority are relatively small and stand within narrow plots. In contrast, the appeal site is a wide and deep corner plot. This is occupied by a large two-storey dwelling and outbuildings that are recessed into the centre of the site and are surrounded by overgrown gardens.

16. The proposed dwellings would be similar in style and design to each other. These would be wide plots, accessed from a private drive. The proposed dwellings would be contemporary in design and include brick and render sections. Although the roof over the garages would be subservient to the main roof, it would include a large dormer. As such, the proposed dwellings would have a wide two-storey scale that would limit the gaps between them and form a relatively continuous mass of built form.
17. The scale of the proposed dwellings and width of plots would not accord with the predominant pattern of development or respect the existing rhythm of narrow plots of existing housing. Therefore, the proposed dwellings would be disproportionate to the scale of the local housing. Consequently, these would not integrate well with the predominant pattern of local development in terms of scale, design or plot formation. Furthermore, as the NP supports smaller dwellings of up to three bedrooms, the proposal would not deliver the scale of housing sought locally.
18. Consequently, the proposed development would harm the character and appearance of the surrounding area. As a result, it would conflict with policy HQ1 of the LP, the Central Bedfordshire Design Guide (2014), Policy T2 of the NP and the Framework. These policies seek, among other matters, for development to reinforce local distinctiveness and be sympathetic to local character.

Effect on the Chiltern Beechwoods SAC

19. The appeal site is within the ZOI of the SAC which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). A condition has been offered by the appellant, requiring an HRA Assessment to be undertaken prior to the occupation of two of the three dwellings.
20. However, the Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage¹. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the scale of development or absence of guidance or policies within the development plan.
21. Had I been minded to allow the appeal, it would have been necessary for me to undertake the AA. This would be required on a case-by-case basis to determine whether or not the project will adversely affect the integrity of the SAC. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective and could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Highway safety

22. Castle Hill Road becomes Stanbridge Road when passing through the village in front of the appeal site. Knolls View meets this intersect forming a junction with the main road. Knolls View has a 30mph speed restriction and is not a through

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

- road. It is largely residential in character and includes a footpath alongside the appeal site. The existing access into the site is located a short distance from the junction. The proposed access would be relocated further from the junction.
23. The Highway Authority has sought a visibility splay at the proposed access of 2.4 by 43 metres in both directions. A section of hedging, within the site, could be removed to the northeast to achieve the required visibility splay in that direction.
24. In terms of the view to the southwest, the junction into Knolls View from the main Road is on a bend. As such visibility when turning into the secondary road would be slow and cautious due to roadside visibility obstructions. Having just turned off the main road, the speed of vehicles approaching the site from the southwest would be likely to be substantially lower than the speed limit of the highway.
25. The stopping sight distance (SSD) is the distance motorists require to be able to see ahead and they can stop within from a given speed. In considering the application of visibility splays, Manual for Streets 2² (MfS) states that the Y distance should be based on the recommended SSD values. However, MfS also explains that unless there is local evidence to the contrary, a reduction in visibility below recommended levels would not necessarily lead to a significant greater risk to safety. As such, taking the context of the site into account, a visibility splay of 2.4 by 33 metres, as offered by the appellant, would be acceptable and enable safe egress from the site.
26. Turning to on-site matters, each proposed dwelling would have a double garage and double width driveway and be able to accommodate four vehicles. This would fulfil the Council's requirements for a parking provision for 10 vehicles. The proposed layout would include a small spur road adjacent to plot 3. Accordingly, light goods vehicles would be able to turn within the site and leave in a forward gear. Therefore, the layout would be able to safely accommodate delivery vehicles.
27. As such, the proposal would not result in an adverse impact on highway safety. Consequently, the proposal would comply with policies T2 and T3 of the LP. These seek, inter alia, for development to not impede the free-flow of traffic, provide safe and convenient access and to have regard to parking standards.

Other considerations

28. The proposal would not result in harm to the living conditions of adjacent occupiers or future occupiers or harm heritage assets. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance.
29. The proposal is presented as a single operation that would demolish the existing dwelling and replace it with three dwellings. As such, although paragraph 149(d) allows for a replacement building, the proposal would not satisfy the requirements of this exclusion being for three dwellings. Furthermore, LP policy SP4 is clear that a proposal for a replacement dwelling must be similar in scale, and on a similar footprint, to the original building.

² Manual for Streets 2, published 2010

30. The Framework seeks to boost the supply of housing. The proposal would deliver two further dwellings that would create employment during construction and where future occupiers would support local goods and services. Nevertheless, this would make a limited contribution to the local economy and be of limited weight in favour of the proposal.
31. Although the proposed development is small, with a net increase in two dwellings, the Habitat Regulations require an increase of one or more dwellings to be considered under an AA. Therefore, whilst future occupiers would be likely to mostly attend recreational space within the village, the effect on the integrity of all sites within the ZOI has the capability to affect the integrity of the SAC. Furthermore, a condition for future assessment and mitigation would presume that the principle can be found to be acceptable. Whereas the proposal would need to incorporate mitigation measures to avoid additional recreation impacts. Therefore, I am unconvinced that a planning condition would enable the certainty to deliver robust mitigation measures.

Whether there would be Very Special Circumstances

32. Paragraphs 148 and 149 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
33. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in significant harm to the openness of the Green Belt and the character and appearance of the area. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt. I have also concluded that the proposal would harm the character and appearance of the area, a point of further significant weight.
34. On the other hand, other considerations, including the economic and social benefits of the scheme are of limited weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development, either alone or in combination, do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.
35. Consequently, the proposal would be inappropriate development and as such harmful to the Green Belt. The proposed dwelling would therefore be contrary to paragraph 149(e) of the Framework and policy SP4 of the LP.

Conclusion

36. The proposal would not be in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

B Plenty

INSPECTOR