

Appeal Decision

Site visit made on 4 April 2022

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13th June 2022

Appeal Ref: APP/Y0435/W/21/3282446

The Globe, 50 Hartwell Road, Hanslope MK19 7BZ

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Clayson Country Homes and Paradigm Housing Group against the decision of Milton Keynes Council.
 - The application, ref. 20/03339/FUL, dated 21 December 2020, was refused by notice dated 27 April 2021.
 - The development proposed is described as an entry level housing exception scheme of 30 dwellings, central open space area (including SUDs) with access onto Hartwell Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the appeal process, a draft Section 106 Heads of Terms¹ was submitted by the Council in order to accompany their Statement of Case (SoC) and to state what the Council consider to be necessary contributions should the appeal succeed. All parties have signed the agreement and in accordance with the 'Wheatcroft principles'², I see no prejudice towards either party or interested party in accepting this draft S106 Heads of Terms and will base my decision upon it.
3. I note that both parties in the original planning application and appeal documents contain references to the National Planning Policy Framework 2019 (the Framework). Since the submission of the appeal, the 2019 version of the Framework has been superseded by the 2021 version. I have considered the appeal on this basis and refer only to the updated 2021 Framework within my decision.
4. The address noted on the application and appeal documents refer to 50 Hartwell Road which is the address of The Globe Public House that is located to the front of the site. For clarification, this appeal does not affect the public house, but the land behind, with access to the site provided by an access to the side of the Public House to/from Hartwell Road.
5. On 28 June 2021, the First Homes policy came into effect through a Written Ministerial Statement (WMS) and accompanying Planning Practice Guidance

¹ Dated 10th March 2022

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

(PPG). The WMS constitutes national policy alongside the Framework, subject to transitional arrangements. The First Homes policy sets an entry level exception site policy which would replace the requirements of the exception site policy provided in paragraph 72 of the Framework. However, under the transitional arrangements, proposals can still be assessed under Paragraph 72 if they meet certain criteria under the transitional arrangements set by the First Homes Policy. Having assessed the proposal against the transitional arrangements of the First Homes Policy, I agree that there has been 'significant pre-application engagement and which are determined before 28 March 2022' as per the definitions of the PPG.³ As such, Paragraph 72 of the Framework is applicable to the assessment of this proposal.

Main Issues

6. The main issues of the appeal are:

- Whether the proposal would provide a suitable site for development that is well integrated to the existing settlement, having regard to its location and access to local services, facilities and whether the site can be qualified as an entry-level housing site that is in accordance with the development plan policies and the Framework;
- The effect of the proposed development upon the character and appearance of the site and the greater locality;
- Whether the proposal provides an acceptable housing mix when assessed against the development plan policies;
- The effect of the proposed development upon the biodiversity of the site and the greater locality; and
- Whether the proposal provides a suitable drainage strategy that is in accordance with development plan policies.

Reasons

Suitability of the site for development

7. The appeal site comprises of a field to the rear of the Globe Public House, the south-eastern side of Hartwell Road and to the south-east of the settlement of Long Street, which is defined as a 'Village and Rural Settlement' under Policy DSS1 of the Milton Keynes MK:2019 Plan (MK2019); and as an 'Other village with a development boundary' under Policy HAN1 of the Hanslope Village Neighbourhood Plan 2016-2031 (HVNP). Both policies seek that new development is focussed within development boundaries. Whilst part of the driveway which accesses the appeal site is within the development boundary, the majority of the appeal site falls outside the current development boundary and would be on land designated as 'open countryside' as per MK2019 Policy DS5.
8. MK2019 Policy DS5 specifies exceptions for development within the open countryside, such as for agriculture, limited extensions and ancillary structures, replacement dwellings and new dwellings of exceptional quality. Additionally, Policy HAN2 of the HVNP seeks the allocation of three housing sites within the

³ Paragraph 021 Reference ID: 70-021-20210524

nearby village of Hanslope, with no allocations shown in the policy map for the Long Street settlement.

9. I have taken on board comments previously expressed by another Inspector for a planning appeal⁴ at the appeal site regarding the accessibility of the site and generally agree that whilst access to services and facilities from the site is not ideal; there is an infrequent bus service located outside the site and some ability for residents with good mobility to walk to the nearby settlement of Hanslope by foot.
10. Despite this, it is clear that when considering the proposed scheme against the Development Plan policies of MK2019 Policies DS1 and DS5, and HVNP Policies HA1 and HA2, both of which are described above; given its location outside the development boundary, the proposed scheme is not compliant with these policies.
11. The appeal documents direct my attention to Paragraph 72 of the Framework which seeks to support the development of entry-level exception sites, suitable for first home buyers. To comply with this policy proposals of this type should be on land that is not allocated for housing, and demonstrate that a need for this type of housing is required. In deciding whether such schemes are appropriate outside development boundaries, the proposed sites should comprise of one or more types of affordable housing; be adjacent to existing settlements; and proportionate in size to them.
12. I note discussion on whether Long Street is a settlement on its own or whether it is part of the larger settlement of Hanslope, which at its closest point has its development boundary approximately 300 metres from the development boundary of Long Street. I note legal advice⁵ submitted with the appellant's Statement of Case (SoC) which states that 'existing settlements' are not a question of law but a question of planning judgement, where this judgement is based upon a number of factors such as how the settlements are actually experienced on the ground and raises issues of holistic, textured and multi-faceted questions which goes far beyond the lines drawn on a map. I agree with this basis of assessment and turn to it below.
13. Having visited Hanslope, this settlement is located along Long Street where it then diverts into two streets called High Street and Gold Street which converge where the Church of St James is located which appears to be quite early in date. Both of these streets appear to form a historic core and the nucleus of the settlement where there are a collection of Georgian, Victorian and Edwardian dwellings, and some of earlier origin such as the thatched and rubble stone cottage along Gold Street. As per its name suggests, the High Street contains many of the facilities and services of the village, such as a Public House, takeaway, working men's club and a Methodist Chapel. It is evident that this historic core of the village represents the origins of this settlement, which in itself is some distance away from the village of Long Street. Judging by the built form, the settlement of Hanslope has then expanded over the decades with evidence of development along Eastfield Drive, Western Drive, Williams Close and Kitelee Close in the late twentieth century which brought the expansion of the settlement of Hanslope closer to the settlement of Long Street. Additionally,

⁴ Appeal Ref: APP/Y0435/W/19/3220584, dated 5 September 2019

⁵ Written by Zack Simons, Landmark Chambers, Dated 31 March 2021

in the twenty-first century, further development in the form of an allocated site has come forward to the edge of Hanslope in closer proximity to the Long Street settlement.

14. The settlement of Long Street, judging by the age of development appears to have commenced as small groups of dwellings situated along the roadside and formed a linear settlement with the Globe Public House towards the centre. Whilst the village is within close proximity now as a result of infill development where this village has too expanded over the centuries to be in close proximity to Hanslope; I am not persuaded that this proximity alone makes the Long Street village part of the settlement of Hanslope. It is quite clear to me that both settlements grew organically distinct from one another and that there is a clear change in experience from the settlement of Hanslope to the settlement of Long Street, they are both distinct from each other and the experience of the villages 'on the ground' reflects this.
15. Whilst the HVNP may describe the relationship between the two settlements as a 'cohesive entity' this may also refer to the reliance and relationship that the smaller Long Street settlement has on the services of the larger Hanslope settlement like many villages, albeit separate and distinct, have a cohesive relationship. That said, based on the evidence before me and what I saw on my site visit, the 'facts on the ground' lead me to a view that the settlements of Long Street and Hanslope are distinctly separate settlements and should be treated as such for the purpose of paragraph 72 of the Framework. It is noted that another Planning Appeal⁶ has also supported this view where in this appeal the gap between each of the settlements was determined as being within open countryside between two settlements, rather than a gap within one settlement.
16. Taking the above into account, when judging 'proportionality' in accordance with paragraph 72 of the Framework, the judgement would be made against the village of Long Street. Proportionality is further defined in the Framework via footnote 35 which states *that 'Entry-level exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.'* The appellant's interpretation of this footnote is that the footnote places a two-part test in that because there is an 'or' that if for example the scheme meets the size component, then it does not have to meet the 5% component. The appellant has therefore questioned the Council's approach to applying both components of the footnote to the proposed scheme.
17. To me, the purpose of the footnote is to give guidance to paragraph 72 of the Framework and to be flexible in its approach. Given that there are a vast amount of different villages throughout England, sometimes 'proportionality' will be dependent upon the size of the site; and sometimes it will be dependent upon the percentage increase in relation to the size of the settlement. It will be therefore up to the decision maker to make a judgement as to which is more relevant to the proposal at hand, sometimes it may be one of the specified components of the footnote 35 and sometimes it may be both. This is further emphasised by the example approved applications⁷ as submitted with the appellant's SoC. In both these cases the decision makers were satisfied that the scheme met with the particular component of the footnote that was considered to be most relevant. Turning to the proposed scheme, whilst the size of the site

⁶ Appeal Ref: APP/Y0435/W/17/3177851

⁷ South Northamptonshire District Planning ref: S/2020/0670/MAF and South Kesteven District Planning Ref: S19/0740

might be under 1ha, to me this is less relevant than an assessment of the percentage increase of the scheme to the size of the settlement.

18. I am aware that different approaches have been undertaken to measure the size of a village, but generally reflect two approaches as suggested in the Council Officer's report, one regarding size and the other regarding overall dwellings. The Council has supported the principle of both these approaches with an appeal⁸ which utilises the dwelling approach, whereas another Local Plan from North Devon and Torridge seeks that the size of a settlement is determined by its overall size in extent of area within the settlement boundary. Whilst I agree that there is no defined methodology of applying proportionality, I agree that both approaches represent logical and robust ways of undertaking such an analysis of proportionality.
19. The Council has undertaken both approaches to examine the appropriateness of the scheme. Under the total area approach the calculated area of the Long Street Village is 7.02 hectares in accordance with the HVNP settlement boundary. It is calculated that the site area of the proposed scheme at 0.83 hectares would be an 11.8% increase to the village⁹. Turning to an assessment of overall dwellings, according to the Council's calculations at the time of writing the Officer Report, the settlement of Long Street contains 113 residential addresses. The addition of 30 dwellings to the settlement would represent a 26.5% uplift in dwellings.
20. It is clear that under both approaches, that the proposed scheme would exceed the 5% increase as suggested by paragraph 72 of the Framework. Taking this into account, the proposed scheme would not represent a proportionate extension to the Long Street village. Consequently, and in conclusion of this matter, the proposed scheme would not provide a suitable site for the proposed development that is well integrated to the existing settlement, having regard to its location and access to local services and facilities. The proposed scheme is therefore not in accordance with MK2019 Policies DS1 and DS5; HVNP Policies HA1 and HA2 and paragraph 72 of the Framework.

Character and appearance

21. MK2019 Policy D1 seeks that development is of high quality and sets a number of design principles and objectives such as responding to the site and surrounding context, appropriate framing of space, and soft and hard landscaping that continues the verdant and green character of Milton Keynes, amongst others.
22. The village of Long Street is a linear development which is situated along Hartwell Road, Higham Cross Road, and Glebe Lane and this linear layout is a strong component of the character of the village. The majority of dwellings within this settlement front either road and consist of detached and semi-detached dwellings with vegetated setbacks from the road edge, large gardens and spaces in and around dwellings. There is an emphasis on mature vegetation such as hedges, street trees and grass verges which emphasise a green and leafy rural character. Development is focused upon the road edge with views

⁸ Appeal Ref: APP/N2739/W/19/3242959

⁹ There is a discrepancy between the settlement boundary of Long Street settlement between the MK2019 Plan and HVNP. The MK2019 states the area of Long Street Village is 8.6 hectares, which would be 9.65% of the village. As the HVNP is more recently adopted, these figures have been utilised.

between dwellings to vegetation and fields beyond. Traffic levels and movements are low which contributes to a tranquil character which together the above-mentioned elements, amongst others, contributes to the positive qualities that reflect this village's character, appearance and local distinctiveness.

23. As shown on the site plan, the proposed development would present as a series of cul-de-sacs leading off the central road from Hartwell Road with a central open green space. Whilst this type of cul-de-sac arrangement would not reflect the strong linear characteristics of this particular village, the development is also very car dominated. Front setbacks of each of the dwellings are taken up by hardstanding and vehicular parking, as are the boundaries of the open space to the centre of the development. There has been some attempt to separate the dwellings by the addition of further car spaces in between, however the development is very dense and tight-knit in its layout compared to the spacious, green and leafy characteristics of the surrounding development. The general experience and feeling of this development would be one of a more urban and developed, than rural, green or leafy which are some of the positive attributes of this particular location.
24. I acknowledge comments in the appellant's SoC regarding comments from the previous inspector for this site who commented that they felt that the site had some development potential and that the site felt more part of the settlement, than the open countryside beyond. Whilst I do not disagree with these comments, the previous appeal also related to half the amount of dwellings as in this appeal where the compliance with aspects of character are based upon the merits of this particular case when assessed against the characteristics of the settlement.
25. Consequently, and in conclusion of this matter, the proposed layout and form of the proposed scheme would not embrace the positive qualities of character, appearance and local distinctiveness of the Long Street settlement. As such the proposal would be in conflict with MK2019 Policy D1 as described previously.

Housing Mix

26. According to MK2019 Policy HN2, proposed developments of affordable housing is required to meet a number of criterion involving supply (appropriate tenure mix, design, siting, phasing and integration) and management (seeking discounted market rent, affordable in perpetuity etc), amongst others; which is based upon transparent and robust evidence of local need. MK2019 Policy HN2 seeks that the evidence is to be derived from the wider neighbourhood that the proposal is located in, ie: The Long Street Settlement. The HVNP Policy HA4 seeks that a number of design and development principles are adopted in new development, such as responding to identified needs of the Parish and have a mix of housing types and styles that reflect the design and character statement.
27. The appellant has provided information within the appeal documents of the housing mix of the Hanslope Parish area as a whole, and from Census data, that 77.7% of properties are owned; 0.5% of properties are in shared ownership; 10.5% of properties are rented, and that shared ownership properties approved in new developments comprise the lowest proportion at 19%.
28. Whilst the figures given do illustrate that the principle provision of a high percentage of affordable dwellings could contribute to and assist in meeting the needs of first home buyers and provide mixed and balanced communities; this is from an entire Parish perspective, rather than the neighbourhood of the appeal

site which should be for the Long Street Settlement. Based on the evidence before me, it is unclear as to the current tenure and housing mix of the Long Street settlement and the contribution caused by the proposal in order to satisfy MK2019 Policy HN2 and HVNP Policy HA4. Additionally, as previously discussed the design and siting of the development would not be proportionate and thus not integrate appropriately with the existing settlement which is a key principle of MK2019 Policy HN2.

29. Based on the above, and in conclusion of this matter, the proposal fails to demonstrate that it provides an acceptable housing mix that would deliver balanced and mixed communities. Consequently, the proposed scheme would be contrary to MK2019 Policy HN1 and HVNP Policy HA4 as described previously.

Biodiversity

30. MK2019 Policies NE2 and NE3 seek that sufficient information is submitted to assess any impacts towards biodiversity and geological resources, including protected species and habitats, and where effect is known, that proposals will be required to mitigate and as a last resort, compensate.
31. According to the appellant's SoC, the net loss of biodiversity is unable to be mitigated on site and that a financial contribution is proposed for off-site mitigation at a sum of £75,000 which at the time of the decision being made, was not considered to be sufficient. After further discussions during the appeal process, the draft Heads of Terms for the S106 agreement has been completed with the figure for biodiversity mitigation increased to £79,800 which is considered by both parties as being acceptable.
32. Taking the above into account, and in conclusion of this matter, there is a sufficient mitigation made to offset the harm caused to biodiversity and geology. As such, the mitigatory elements of the proposal would overcome the non-compliance with MK2019 Policies NE2 and NE3.

Drainage

33. The concern from the Council regarding drainage is that the proposed scheme contains the use of large diameter pipes which was not considered a sustainable method of drainage, as well as concerns regarding water quality in respect of unsuitable treatment. Whilst the appellant has provided further details with regards to this via an updated surface water drainage strategy, the concerns from the Council remain with regards to this issue.
34. Paragraph 54 of the Framework states that '*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.*' Given that the principle of appropriate drainage is possible to the site, this is a matter that could be overcome and resolved through further discussion and as per a condition, such as that suggested by the Council if the appeal was to succeed. I am therefore satisfied that this would be an appropriate approach to resolve this matter.

Other Matters

35. There are comments in the appeal documents from interested parties who have made comments regarding traffic; flooding; mud on the road from construction traffic; unfulfilled promises by the developer to re-open the Globe Public House; overlooking into existing properties surrounding; village surgery and schools being full to capacity; highway safety; covenants preventing development; and

lack of ability of the developer to complete three dwellings adjacent to the entrance to the appeal site. Matters such as covenants, or the past actions or promises made by the appellant in relation to the three previously approved dwellings and the operation of the Public House are not planning matters and therefore have not been considered as part of this appeal. Given that the scheme has failed on three grounds, it has not been required to delve further into matters such as highway safety, overlooking, and the need for contributions towards schools, medical facilities etc.

Planning Balance

36. I have found that the appeal scheme would result in a disproportionate development that would not integrate well with the village, has not demonstrated a sufficient mix of housing, and would not reinforce the local qualities of character and distinctiveness to the settlement of Long Street. These matters conflict with the development plan and weigh substantially against the proposed development.
37. As set out above, a signed draft S106 Agreement has provided for and appropriate affordable housing tenure split, and a Biodiversity Offset contribution. Given that I am dismissing the appeal, I have not considered whether these obligations are compliant with CIL Regulations 122 and 123. However, for the purposes of the planning balance, I have considered that they do meet the tests set out in the CIL Regulations 122 and 123.
38. The scheme would deliver some public benefits in terms of mixed and balanced communities with the increased provision of affordable housing. The scheme would also provide socio-economic benefits from short term employment opportunities in the construction of the proposal, as well as the increased expenditure locally from future residents. Subsequently, I consider these benefits carry limited to moderate weight. The biodiversity provisions off-site are to offset the impacts of the proposed development and therefore attract neutral weight.
39. Given all of this, I do not consider that the benefits of the scheme outweigh the identified harm and subsequent development plan conflict. I conclude that the scheme would conflict with the development plan, when considered as a whole. There are consequently no material considerations that warrant a decision other than in accordance with the development plan.

Conclusion

40. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal be dismissed.

J Somers

INSPECTOR