



Appeal Decision

Site visit made on 25 October 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2022

Appeal Ref: APP/P0240/W/21/3288854

Land at Park Farm, Eaton Bray, Dunstable LU6 2RR

Grid Ref Easting: 496378, Grid Ref Northing: 220460

- 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 Hatch Homes Ltd. against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/03207/FULL, dated 7 July 2021, was refused by notice dated 17 August 2021.
 - The development proposed is the erection of 8 affordable dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended site, floor, and elevation plans¹ have been submitted as part of the appeal which seek to address the Council's third reason for refusal by extending the proposed garages by 300mm in width. Although the appeal process should not be used to evolve a scheme to address the Council's objections, the changes to garage widths proposed are very minor and the Council has not objected to the amended plans in its appeal submissions. On account of the very minor nature of the changes set out in the amended plans, which the Council were afforded the opportunity to comment on, I am satisfied that no parties would be deprived of the opportunity of consultation or otherwise be caused any injustice by me proceeding to assess the appeal based on these amended plans.
3. An amended access and sightlines plan² has also been submitted as part of the appeal on account of the Council's fourth reason for refusal relating to an erroneous plan³ submitted as part of the planning application. The turning head at the south-western end of the proposal was shown on the proposed site and block plans, but the erroneous access and sightlines plan failed to show that turning head. The amended access and sightlines plan does not therefore alter the proposed development, but it provides clarity and annotations relating to fire tender and refuse vehicle turning areas. The Council has commented on the amended access and sightlines plan in its appeal submissions and as with the other amended plans, I am satisfied that no parties would be deprived of the opportunity of consultation or otherwise be caused any injustice by me proceeding to assess the appeal based on this amended plan.

¹ Drawing numbers: J003395-DD-03 Rev A, J003395-DD-04 Rev E, and J003395-DD-06 Rev B

² Drawing number: A19182-101 Rev P4

³ Drawing number: A19182-101 Rev P3

4. Natural England issued a letter⁴ to the Council during the course of this appeal which relates to all development proposals within a 12.6km Zone of Influence (ZoI) of the Chilterns Beechwoods Special Area of Conservation (SAC). The appeal site is located within the ZoI. The parties were provided with the opportunity to comment on this matter, and as such I have dealt with it as a main issue in the appeal.
5. A signed unilateral undertaking⁵ (UU) has been provided by the appellant during the course of the appeal, which seeks to secure the proposed dwellings as affordable housing in the case that planning permission is granted, amongst other things. Following comments made by the Council, the appellant has submitted various draft alternative UUs, none of which have been completed/signed prior to this decision being issued. The appellant was advised that the issue of this decision would not be delayed after the date of my site visit for further documents to be submitted.

Main Issues

6. Taking the above into account, the main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposed development on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on highway safety, with particular regard to parking provision and access road layout;
 - the effect of the proposed development on the SAC; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Whether Inappropriate Development

7. The appeal site is a corner of a large agricultural field, located within the Green Belt and abutting the settlement boundary of Eaton Bray. Paragraphs 147 and 148 of the Framework advise that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, but exceptions include limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).

⁴ Letter dated 14 March 2022 signed by John Torlesse, Area Manager – West Anglia Team, Natural England

⁵ Dated 31 May 2022

8. Policy SP4 of the Central Bedfordshire Local Plan 2015 – 2035 (2021) (LP) states there is a general presumption against inappropriate development in the Green Belt and that proposals will be assessed in accordance with the advice contained in the Framework and National Planning Policy Guidance, amongst other things.
9. The appeal site abuts Northall Road to the south-east and Northall Close to the north-east. It is proposed to erect 8 affordable dwellings with associated access road from Northall Road. In order to benefit from the exception to inappropriate development provided at paragraph 149(f) of the Framework, the proposal must comprise affordable housing for local community needs under policies set out in the development plan. I have been referred to policy H5 of the LP and its supporting text.
10. Policy H5 is clear in stating the development of rural exception sites outside of the Green Belt will be supported where 7 criteria are met. As the site is located within the Green Belt, the policy offers no support for the proposal, but I note the relevance of the policy's supporting text. This explains that historically there has been a shortfall in the delivery of affordable housing in a number of small rural settlements. The supporting text also explains that rural exception sites have been the most efficient way of providing affordable housing for rural communities and that they are becoming more critical for the delivery of such housing. It also sets out that local housing needs surveys will evidence the level of demand for affordable housing within a settlement, identifying the number, tenure and size of such properties needed, and presenting its findings in a clear report to the Council.
11. The appellant relies on a housing needs survey undertaken by the Council in 2012 and a housing needs survey undertaken by WS Planning & Architecture in 2016. The full results of these surveys have not been provided as part of the appeal and no explanation has been given as to why a redacted or summarised copy of the relevant parts of the survey results cannot be presented in accordance with the General Data Protection Regulations. In any case, a significant period of time has passed since each survey was undertaken, during which there have been changes made to the development plan and other local circumstances may have changed. This would limit the weight I could assign to their findings.
12. I have also been referred to Policy EB14 of the Eaton Bray Neighbourhood Plan 2015 – 2035 (2019) which states: 'proposals for housing development should be predominantly 1/2/3 bedroom; flats, semi-detached or terraced housing to encourage an increase in properties for the young or elderly'. The supporting text explains this would also address an imbalance in housing stock. It has been suggested that this policy reflects the needs of the local community. The proposal would conflict with this policy because it would predominantly comprise large 3-bedroom detached houses. The mix of housing proposed would not therefore reflect local community need.
13. In summary, I have not been presented with any clear evidence which demonstrates the proposal would address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection to Eaton Bray. It has not therefore been demonstrated that the proposal would comprise a rural exception site, as defined in the Framework. It has not been demonstrated that the proposal

would provide limited affordable housing for local community needs under policies set out in the development plan, including policies for rural exception sites. The proposal would therefore comprise inappropriate development in the Green Belt.

Openness

14. Paragraph 137 of the Framework states: 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Paragraph 138 identifies five purposes Green Belts serve, which include to assist in safeguarding the countryside from encroachment. Openness is therefore an essential characteristic of the Green Belt, which has spatial and visual aspects.
15. The appeal site is an open field bordered by chain-link fencing along its boundary with Northall Close and a thick hedgerow along its boundary with Northall Road. These are low-level in nature and clear views of the appeal site and open fields to the north and west are available from those public vantage points. These are seen in the context of views of open countryside to the south and the built edge of Eaton Bray to the north-east.
16. Taking the size of the village and its open countryside surroundings into account, the proposed development would comprise a relatively small extension of built development into the undeveloped field. Although it would abut the edge of the settlement boundary and form a continuation of the built form of the village, it would be experienced as a significant incursion into the Green Belt. Even when seen against the backdrop of the village edge, the proposal would have a significant visual impact on the openness of the Green Belt. This would be experienced in long public views from Northall Road in particular. The spread of 8 two-storey houses with associated access road would have a significant impact on the openness of the Green Belt in a spatial sense too.

Character and Appearance

17. As part of an open agricultural field, the appeal site is typical of its wider rural surroundings outside of the village envelope, in the Eaton Bray Clay Vale landscape. It adjoins the built-up boundary of the village to the east, but is otherwise surrounded by flat, spacious, open fields offering distant views to the south, west and north. Surrounding agricultural fields are enclosed with hedgerows and interspersed with occasional trees.
18. The collection of houses off of Northall Road near the appeal site are mainly two-storey terraces with off-set front and rear elevations, although there are examples of larger and smaller detached houses nearby too. The proposed development would comprise 6 detached and 2 semi-detached two-storey houses, the scale of which would be similar to the adjacent existing buildings.
19. The appellant has submitted a Landscape and Visual Impact Assessment⁶ (LVIA) which identifies three landscape character zones in the local area and concludes that the key landscape elements and features of those zones would remain intact. It sets out how planting would respond to the existing landscape character of the local area and integrate the proposed development within it,

⁶ By Petrow Harley Limited, Project number: 796, dated April 2020

and that the proposed dwellings would not be highly visible from points of public access and as such would not be detrimental to the character of the landscape. This would rely on the provision and future maintenance of communal landscape strips, damson and apple orchards, and native hedges and trees.

20. It is suggested that the existing thick hedgerow along Northall Road would be retained, but the proposed site plan and access and sightlines plan indicate that this would be replaced by a new hedgerow to accommodate the necessary sightlines from the proposed access road. A new opening would be provided in the hedgerow on Northall Road to allow a proposed footpath to link with the existing footpath outside of the appeal site.
21. Notwithstanding the findings of the LVIA, the proposed street elevations plan⁷ would suggest clear views of the proposed dwellings would be available from Northall Road. Although this highway does not have a footpath extending beyond the existing village envelope, that would not prevent the proposed buildings from being clearly seen along this road. Those views would be of a small, dense, enclosed group of houses, uncharacteristic for the village and its surrounding fields.
22. The wide landscaping areas proposed along the Northall Road and Northall Close boundaries would not therefore help the proposal integrate with its surroundings. Public views from the open countryside would appear to be limited and currently include clear views of housing and associated parking within Northall Close. However, the landscape strips, hedging and trees proposed along the north-western and south-western boundaries would not effectively shield views of the development from those directions.
23. The proposed changes to the hedgerow along Northall Road with two formalised openings to the highway would emphasise the presence of the proposal and its poor integration with the village. It would be experienced as an isolated pocket of development outside of the village. The proposed footpath connection to Northall Close would achieve little in this regard, as it would lead to, and conflict with, parking areas at the rear of neighbouring houses.
24. Although the scale of the proposed buildings would reflect that of other houses in the village, their layout and separation from the rest of the village in an area which currently forms part of an open field would relate poorly to the structure, form and character of Eaton Bray. The proposal would also have a low-level negative impact on the open, spacious landscape character of the area outside of the village.
25. The overall design of the proposal, including its location, would therefore harm the character and appearance of the area, contrary to Policy HQ1 of the LP and the advice of the Central Bedfordshire Design Guide (2014). Amongst other things, these require development to be of the highest possible quality, which should respond positively to its context, be appropriate in scale to its setting, relate well to existing local surroundings and reinforce local distinctiveness.
26. The proposal would also fail to accord with Policy SP7 of the LP which explains that settlement envelopes provide a distinction between settlements and the countryside and that outside settlement envelopes the intrinsic character and

⁷ Drawing number: J003395-DD-07 Rev A

beauty of the countryside will be recognised, and only particular types of development will be permitted. The proposal would not comprise any of the particular types of development specified by the policy.

27. The Council has also referred to Policies EE3 and EE7 of the LP in its second reason for refusal. These do not relate to the character and appearance of the area of the appeal site, which is outside The Chilterns Area of Outstanding Natural Beauty. No evidence has been presented which suggests that the proposal may conflict with these policies. I have not therefore considered them further.

Highway Safety

28. The appellant has explained that the amended plans increase the widths of the proposed garages by 300mm, to accord with the advice set out in the Central Bedfordshire Design Guide. This would ensure the proposal would provide 23 car parking spaces, including 2 visitor spaces. The Council has not disputed this in its appeal submissions.
29. The car parking standards set out in the Central Bedfordshire Design Guide specify a minimum number of 2 spaces should be provided for 2/3-bedroom properties, and a suggested number of 3 spaces should be provided for 3-bedroom properties if specific needs dictate this, such as in rural areas or to provide choice for larger homes. These should be in addition to 0.25 visitor spaces per dwelling proposed.
30. The proposal would therefore accord with the minimum parking standards set out in the Central Bedfordshire Design Guide. The appellant's Transport Statement⁸ explains that the appeal site is a sustainable location within walking distance to the school and local facilities and bus links, it and would generate low volumes of traffic. The Transport Statement therefore concludes that the minimum parking standards should be applied in this case, without detriment to highway safety. I have not been provided with any information by the Council to lead me to conclude otherwise.
31. The access and sightlines plan shows a refuse vehicle and fire tender swept path, with a turning head at each of the north-eastern and south-western ends of the proposed access road. The Council's objection relates to that which would be provided at the south-western end on account of what it refers to as an absence of lateral clearance. This, it is claimed, could not give an element of safety between vehicles using the public realm to turn and those on private property.
32. The fire tender swept path annotations on the access and sightlines plan show a very slight overlap with the front garden area of the proposed House 5. The overlap is very small, and the appellant has suggested further tracking diagrams could be required by condition to show the proposal could provide the necessary lateral clearance. There would also be another turning head at the north-eastern end of the proposal and the opportunity to turn at the junction within the proposed development. In the absence of detailed explanations to the contrary, the access and sightlines plan demonstrate refuse and fire tender vehicles would be able to turn safely within the proposal, without harming highway safety.

⁸ By Patrick Parsons, reference: A19182c, dated April 2020

33. I therefore find that the proposal would not harm highway safety with regard to parking provision and its access road layout. These aspects of the proposal would broadly accord with the advice set out in the Central Bedfordshire Design Guide.

The SAC

34. Natural England has advised that likely significant effects on the SAC from net increases in development within the ZoI due to recreational impacts cannot be ruled out. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. As I have found the proposal would be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment, unless if other considerations indicate planning permission should be granted.

Other Considerations

35. The historic shortfall in the delivery of affordable housing in rural areas is referred to by the supporting text to Policy H5 of the LP. The provision of 8 affordable houses in this rural location would be a benefit attracting significant weight in favour of the proposal. However, the Council has identified clear uncertainties in the UU relating to its description of the development, outdated references, contradictory provisions, and the status and ownership of the land, amongst other things. A completed/signed alternative UU which addresses these uncertainties has not been provided. These uncertainties limit the weight I can give to the benefit amounting from the proposed provision of 8 affordable houses in this location.
36. I have identified harm which would be caused to the Green Belt on account of the proposal comprising inappropriate development and harm which would be caused to the openness of the Green Belt. The Framework advises that I must attach substantial weight to that harm. I have also found the proposal would harm the character and appearance of the area. I attach less, but still significant weight to that other harm.
37. There are no other considerations, including the provision of 8 affordable houses in this location, which would clearly outweigh the harm the proposal would cause to the Green Belt and the character and appearance of the area, so as to amount to the very special circumstances required to justify the development. The proposal would therefore conflict with Policy SP4 of the LP and the advice of the Framework.

Other Matters

38. The Council previously provided informal advice by letter⁹ which offered some support for the development of 10 affordable dwellings at the appeal site. I note that informal advice was provided in 2017 in reference to the housing needs survey undertaken in 2016. The Council's letter concluded that overall, the principle of affordable housing at the appeal site at that time was not acceptable. It also explained that the weight which could be attributed to that

⁹ The Council's reference CB/17/01161/PAPC, dated 21 July 2017

advice would diminish over time, as policies and site factors change, and that the informal advice provided was for guidance only and did not bind the formal consideration of any planning application. I have not been provided with the full findings of the 2016 housing needs survey and an up-to-date housing needs survey has not been presented to convince me the Council's previous informal advice should offer any support for the proposal.

39. I have been referred to other sites where the Council has granted planning permission¹⁰ for housing within the Green Belt. In one of those cases the Council considered the provision of 31 affordable houses in a different development plan context, amongst other things, comprised the very special circumstances necessary to clearly outweigh the harm that would be caused to the Green Belt. In doing so, the Council referred to the need for affordable housing throughout the district. Those other considerations also included the site not serving any of the five purposes of Green Belts and a fallback position for residential development. I have not been provided with the officer report or minutes of the Council's planning committee meeting in relation to the other decision referred to by the appellant, where outline planning permission was granted for up to 19 affordable dwellings against officer recommendation.
40. An appeal decision¹¹ relating to a site in South Staffordshire has also been put forward by the appellant. This provides an example of an affordable housing development which was found to constitute a rural exception site which would not be inappropriate development in the Green Belt on account of paragraph 149(f) of the Framework. In that case the development plan indicated support for affordable housing on rural exception sites in the Green Belt where there was a proven local need. That development of 10 affordable houses was found to be in accordance with the development plan, where a housing needs survey which was less than 3 years old demonstrated a need for 44 affordable houses for people with a strong local connection.
41. Based on the information provided, there appear to be significant differences between the other planning decisions referred to above and the proposal the subject of this appeal. Those other decisions do not therefore lead me to any different conclusions on the main issues in this appeal.

Conclusion

42. The proposal would harm the Green Belt on account of its inappropriateness and the harm which would be caused to the openness of the Green Belt. The proposal would also harm the character and appearance of the area. It would not harm highway safety, but it would conflict with the development plan taken as a whole. There are no material considerations that indicate my decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should not succeed.

L Douglas

INSPECTOR

¹⁰ The Council's references: CB/20/00687/FULL and CB/19/00469/OUT

¹¹ Appeal reference: APP/C3430/W/19/3237890