



Appeal Decision

Site visit made on 17 October 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2022

Appeal Ref: APP/K0235/W/22/3294668

Land between Barn Cottage and Ceilidh Cottage, Keysoe Row West, Keysoe Row, Bedford

- 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 P. T. and M. C. Elliott against the decision of Bedford Borough Council.
 - The application Ref 21/02921/FUL, dated 19 October 2021, was refused by notice dated 31 January 2022.
 - The development proposed is 'erection of detached dwelling, formation of access, and landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Biodiversity Enhancements Plan was submitted with the appeal. I consider that no prejudice would occur to anyone by me accepting this plan at the appeal stage as it relates to details of new planting and ecological enhancements and does not change anything fundamental. I have therefore assessed the scheme on that basis.

Main Issues

3. The main issues are:
 - whether or not the site is in a suitable location for housing, having regard to the spatial strategy for the area;
 - whether or not the future occupiers of the dwelling would have access to day to day services by an acceptable choice of modes of travel;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on biodiversity, having particular regard to the impact upon Great Crested Newts (GCNs) and to biodiversity net gain.

Reasons

Location

4. The appeal site lies outside of any defined Settlement Policy Area (SPA) to the west of the Small Settlement of Keysoe Row. The table to Policy 6 of the Bedford Borough Local Plan 2030 (adopted January 2020) (the Local Plan)

identifies that Small Settlements may have more than one area of definite built form. However, the built form of Small Settlements excludes individual buildings and groups of dispersed or intermittent buildings that are clearly detached from the continuous built form of the settlement.

5. The appeal lies within a small cluster of loosely dispersed dwellings around 1.6km to the west of the junction of Keysoe Row West and the B660 Kimbolton Road. Although there is some linear development along Keysoe Row West, there are large gaps and fields between built form such that the appeal site cannot be said to relate closely to the built up part of the Small Settlement. Further, the small number of dwellings within the vicinity of the site does not meet the definition of a Small Settlement, as set out in Local Plan Policy 6, which is a distinct group of buildings and their immediate surroundings that include 30 or more dwellings. Therefore, I find that Policy 6 is not applicable to this proposal.
6. The site is therefore within the countryside for the purposes of the Local Plan. In locations outside SPA boundaries, Local Plan Policy 7S limits new development to that appropriate to the countryside, which includes re-use of rural buildings, replacement dwellings and development that accords with 'made' neighbourhood development plans. The policy goes on to state that, exceptionally, development proposals will be supported on sites that are well related to a defined SPA, Small Settlement or the built form of other settlements provided a list of criteria are met; these include responding to an identified community need, having identifiable community support, being of an appropriate scale, and contributing positively to local character.
7. There is no 'made' neighbourhood development plan in place for the area. The site is not well related to a defined SPA or Small Settlement. The small dispersed group of dwellings in the locality of the appeal site does not constitute a settlement. No community need has been identified to support this development and I note that the parish council and some local residents have objected to it. The proposal does not meet the exception criteria set out under Local Plan Policy 7S and so would be contrary to the policy.
8. The appellant argues that interpreting Local Plan Policy 6 in a negative way is likely to deliver very few dwellings. However, the Local Plan acknowledges that opportunities for development within the built up areas of Small Settlements are likely to be very limited. It is also put to me that the original spirit of Policy 6 was to support sensitive infilling within rural settlements, but in this case I have found that the site is not within a settlement.
9. On this main issue, I conclude that the site is not a suitable location for housing, having regard to the spatial strategy for the area. It would conflict with Local Plan Policies 3S, 4S and 7S which, amongst other things, seek to establish the spatial strategy for planned housing development, control the amount and distribution of new housing and limit development outside SPAs to that appropriate in the countryside.

Accessibility

10. The nearest key service centre of Sharnbrook is around 8km away and not easily accessible from the appeal site. The evidence indicates that the only key services and facilities in the local area, including a primary school, village hall and nursery, are located near the junction of Keysoe Row West and the B660

to the east. For the most part Keysoe Row West is devoid of footways or lighting, and walking or cycling from the site to those limited facilities is unlikely to be an attractive proposition, particularly during the hours of darkness or in poor weather.

11. Although a bus service is available relatively nearby providing access to Bedford, the service appears to be infrequent with only three buses Monday to Saturday, and no services in the late afternoon/evening or on Sundays and bank holidays. I do not consider that this bus service would provide a significant alternative to reliance on the private car. Consequently, the site offers little in the way of opportunities for sustainable alternatives to access jobs, services and facilities. The proposed dwelling would be likely to generate regular, frequent trips by private car to access even the most basic of services and facilities.
12. The appellants consider that the proposal would be likely to contribute towards the vitality and viability of local services as well as those located in nearby villages. However, there is no substantive evidence to demonstrate that assertion and any support for local services would be limited given that the development is for one dwelling. The appellants contend that paragraph 79 of the National Planning Policy Framework (the Framework) factors some travel by private car into rural sustainability. However, since both local and national planning policies seek to direct new development to locations which have good access to services and facilities, including by a range of transport options, this consideration would not outweigh the environmental harm arising from the site's unsuitable location with poor access to local facilities and services.
13. For the above reasons, I conclude that future occupiers of the proposal would not have adequate access to day to day services by an acceptable choice of modes of travel. Consequently, the proposal would conflict with Local Plan Policies 2S, 3S, 4S, 29, 31 and 53 which seek to direct new development to areas that have good levels of accessibility to jobs, services and facilities and promote healthier lifestyles. It would conflict with Framework paragraphs 79, 92, 104 and 105, where these seek to enhance and maintain the vitality of rural communities, maximise sustainable transport solutions, promote walking, cycling and public transport use, and achieve healthy, inclusive and safe places.

Character and appearance

14. The appeal site is a rectangular parcel of land between Barn Cottage and Ceilidh Cottage on the northern side of Keysoe Row West. It features trees towards the rear site boundary and is currently overgrown with dense vegetation. The surrounding area is characterised by a sporadic pattern of development of a small number of detached dwellings within spacious plots and large gaps between them with open fields to the rear. Despite the presence of a storage container, tractor and piles of timber on the site, it nevertheless makes a positive contribution to the rural character of this part of the countryside by providing a clear gap between existing built form.
15. Although the trees at the rear of the site would be retained and new native planting would reinforce existing hedgerows, due to the scale and height of the proposed dwelling, it would dominate the site and result in the loss of a gap between existing built form.

16. The design of the proposed dwelling is broadly reflective of existing nearby buildings, but its proximity to the existing dwellings on either side of it would be uncharacteristic of the sporadic and spacious nature of development along this stretch of Keysoe Row West. Whilst the two properties immediately to the east of the site are close together, they at least have an open character and space to their other sides, as is also the case for the two dwellings to the south-west of the site on the opposite side of the road. The proposal would be clearly visible in the wider area and would undermine the contribution that the site makes to the rural character of the countryside.
17. On this main issue, I conclude that the appeal proposal would be harmful to the character and appearance of the area. This would be contrary to Local Plan Policies 7S, 28S, 29 and 30 which, amongst other matters, require high quality design that contributes to local distinctiveness and respects the local character and context.

Biodiversity

18. The site lies within an amber zone for GCNs which indicates that there is a high likelihood of GCN presence. The Preliminary Ecological Appraisal found that the site provides suitable habitat for GCNs and recommended that further surveys are required to assess a pond around 20m to the south of the site boundary. However, permission for a survey of the pond was not forthcoming. On that basis the value of the site for this protected species is unknown.
19. The appellants have indicated that they would be willing to enter into the District Licensing Scheme to mitigate any impacts that might occur to GCNs and that this can be addressed by a planning condition. However, there is no indication that a licence has been issued.
20. Guidance¹ is clear that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It also states that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. I cannot be certain that a district licence would be likely to be issued in this instance. Therefore, a condition requiring evidence that the developer has joined the District Licensing Scheme would be inappropriate. The appellants refer to a decision in Buckinghamshire where such a condition was proposed. However, I do not have the substantive details of that case before me and so cannot be sure that it represents a direct parallel to the appeal scheme.
21. The appellants' Biodiversity Enhancement Plan shows ecological enhancements in the form of proposed native species planting, provision of bat and swift nesting boxes and hedgehog highways. However, until the effects of the proposal on GCNs have been established it is unclear whether a measurable biodiversity net gain could be achieved.
22. For these reasons, I consider that it has not been satisfactorily demonstrated that the proposal would have an acceptable effect upon biodiversity, having

¹ Paragraph 99 of ODPM Circular 06/2005

particular regard to the impact upon GCNs and to biodiversity net gain. The proposal would fail to comply with Policies 42S and 43 of the Local Plan which, amongst other things, seek to protect and enhance biodiversity.

Other Matters

23. The appellants consider that the removal of the storage container, tidying up of the site and landscaping would improve the appearance of the site. However, there is no convincing evidence before me to indicate that the appeal proposal is the only means of achieving this benefit. Therefore, this matter does not outweigh the harm that I have identified.
24. The appellants claim that the site constitutes previously developed land. The Framework encourages the use of previously developed land where opportunities exist. Previously developed land is defined in Annex 2 of the Framework. Broadly stated this is land which is or was occupied by a permanent structure or fixed surface structure unless the remains thereof have blended into the landscape in the process of time. It is not the purpose of this appeal to make a determination with regard to lawfulness and the evidence before me is insufficient to reach such a conclusion in this regard. Even were I to reach the view that the site did constitute previously developed land as defined within the Framework, the harm I have found would not be outweighed by any benefits associated with the use of previously developed land.
25. I note the other concerns raised by interested parties, including the effects of the proposal on the living conditions of neighbouring occupiers. However, as I am dismissing the appeal for other reasons there is no need for me to consider these matters further.

Conclusion

26. I have found that the proposal is not in a suitable location for housing having regard to the Council's spatial strategy; future occupiers of the development would not have adequate access to day to day services by a choice of modes of travel; and the proposal would be harmful to the character and appearance of the area. It has not been demonstrated that the proposal would have an acceptable effect upon biodiversity, having particular regard to the impacts upon GCNs and to biodiversity net gain.
27. The development would offer potential benefits in terms of providing a new dwelling to the Council's housing stock. It would also have economic benefits through employment opportunities during the construction phase of the development, Council tax revenue and spending in the local area by future occupants. I have attached some weight to these factors. However, given the modest scale of the development, the weight attributable to these matters is limited and is not sufficient to outweigh the harm that I have identified.
28. The proposed development would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal is dismissed.

M Ollerenshaw

INSPECTOR