



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: 24 November 2022

Appeal Ref: APP/P0240/W/21/3288099

Hill House, Wood Lane, Aspley Guise MK17 8EJ

- 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 Dearman & Carey Developments Ltd. against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/01362/FULL, dated 22 March 2021, was refused by notice dated 7 June 2021.
 - The development proposed is the demolition of existing dwelling, garage and outbuilding; erection of three new dwellings with garages, associated access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has adopted the Central Bedfordshire Local Plan 2015 – 2035 (2021) (LP) since the decision notice was issued. The LP has replaced the policies of the North Core Strategy and Development Management Policies Document (2009) and the South Bedfordshire Local Plan (2004) referred to in the decision notice. The main parties were invited to comment on this. I have therefore assessed the proposal against the policies of the development plan in effect at the time of issuing this decision.
3. Natural England issued a letter¹ to the Council during the course of this appeal which relates to development proposals within a 12.6km Zone of Influence of the Chilterns Beechwoods Special Area of Conservation (SAC). The Council and the appellant have since confirmed that the appeal site is located outside of the Zone of Influence and that the proposed development would not therefore be likely to have a significant effect on the SAC.

Main Issues

4. 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;

¹ dated 14 March 2022

- the effect of the proposed development on the character and appearance of the area, with particular regard to the Aspley Guise Conservation Area (CA);
- the effect of the proposed development on the living conditions of neighbouring residents, with particular regard to privacy and outlook;
- the effect of the proposed development on highway safety;
- the effect of the proposed development on biodiversity; 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

5. The appeal site is a detached dwelling on a large plot located within the Green Belt. 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 advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, but exceptions include limited infilling in villages.
6. Policy SP4 of the 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. It explains that within washed-over Green Belt settlements, such as Aspley Guise, development should be sympathetic to the character and openness of the settlement and its surroundings, amongst other things.
7. All parties appear to agree the appeal site is located within a village and I see no reason to find otherwise. The terms 'limited' and 'infilling' are not defined in the Framework. I find the supporting text of Policy SP4 helpful in this regard, which advises: 'Infill development can generally be defined as small-scale development in a small gap in an otherwise built up frontage, utilising a plot in a manner which should continue to complement the surrounding pattern and grain of development'.
8. It is proposed to demolish the existing dwelling and erect 3 detached dwellings. Two of the proposed dwellings would be sited to the rear of where the existing dwelling is located, in an area which currently forms the rear garden of the existing dwelling. The other proposed dwelling would be sited to the side, in an area currently occupied by a driveway and garage.
9. The appeal site is bordered to the north, east and south by neighbouring houses and their gardens. The garden areas to the north and east cover extensive open spaces, while those to the south are more modest in size. In the immediate surroundings, detached houses of varying proportions can be seen in spacious, heavily planted plots.
10. The large proposed dwellings would be set within a cramped layout over different levels. The total amount of development proposed for the sloping plot, which would include a private access road, retaining walls, and garages, would

be inconsistent with the general layout of development in the surrounding area. The amount of development and its layout would not therefore complement the pattern and grain of development in the local area and would not be sympathetic to the character and openness of the settlement and its surroundings. In this context, the scale, bulk and amount of development proposed would not be 'limited' for this location.

11. The supporting text to Policy SP4 merely advises how the Council would generally define infill development, but the proposal would not be restricted to the infilling of a small gap in an otherwise built up frontage. Plots 1 and 2 would appear more akin to a backland form of development, rather than infilling, on account of the undeveloped open nature of the extensive garden areas which border the appeal site to the north and east. These open areas and the large garden of the appeal site contribute to the spaciousness and openness of this part of the village and its rural setting. The proposal would not therefore assist in safeguarding the countryside from encroachment.
12. Taking all of the above into account, the proposal would not comprise limited infilling and it would constitute inappropriate development in the Green Belt. The examples of other developments² referred to by the appellant, which were found by the Council and another Inspector to comprise limited infilling, do not appear to share the same circumstances as the appeal site and the proposal outlined above, and as such they do not affect my reasoning on this point.

Openness

13. The rear of the appeal site is enclosed by thick planting, restricting views into it. 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, including, amongst other things, to assist in safeguarding the countryside from encroachment. Openness is therefore an essential characteristic of the Green Belt, which has spatial and visual aspects.
14. Existing development is limited to the front of the appeal site, leaving most of the rear garden, at a higher level to the existing house, undeveloped. Views into the appeal site would be more freely available on account of the proposed access road, offering glimpses of the proposed buildings at Plots 1 and 2, beyond planting. The proposed dwelling at Plot 3 would also be experienced as a larger building than the existing house on account of its spread across the frontage of the site. This significant increase in built form would inevitably reduce the openness of the Green Belt in a visual and a spatial sense.
15. The proximity of other dwellings in what is an intimate, verdant residential area would slightly limit the impact of the proposal on the openness of the Green Belt. However, the level of harm which the proposal would cause to the openness of the Green Belt would remain significant.

Character and Appearance

16. The appeal site is located within the CA. The CA Appraisal³ explains that the significance of the CA largely relies on its rural setting with locally distinctive

² The Council's references: 18/03405, 16/00211, 18/01210, 17/02661

³ Aspley Guise Conservation Area Appraisal by Mid Beds District Council, 2008

historic buildings and includes native hedgerows enclosing lanes. Many of the CA's buildings of notable architectural or historic interest are located close to The Square, a physically distant part of the CA from the appeal site. The Grade II listed building at Westbank Cottages neighbours the appeal site to the north and a 'building of local interest', Kennel Cottage, is on the opposite side of Wood Lane. There are a range of modern building styles across the CA too.

17. The appeal dwelling dates from the mid-19th century. The most historic part of the building is finished in Flemish bond brickwork comprising red brick and burnt/vitrified headers, which are described as prevalent features of historic buildings in the CA Appraisal. The northern elevation retains decorative window joinery. The more historic parts of the building are easily differentiated from the post-war side and rear extensions on account of the change in external materials, including brick finish and window openings.
18. The appeal dwelling is sited at a higher level than the road, behind a high bank and front boundary planting, which is also mentioned as a notable feature of this part of the CA. Views of the building from public vantage points are somewhat restricted due to the change in land levels and boundary planting. Although it lacks the architectural and historic interest of many buildings within the CA, the appeal dwelling is a visually pleasant historic building, albeit with a large side extension and other more recent alterations. Those more recent alterations do not degrade the visual character of the appeal dwelling to an extent which prevents its historic characteristics from being appreciated.
19. As an historic building with locally distinctive features close to other historic buildings of similar scale, the appeal dwelling makes a positive contribution to the significance of the CA. On account of its age and finish in the context of the CA, and the extent to which it can be seen from public vantage points, it has a low-level of historic significance. This merits consideration in my decision, despite it not being identified as a building of local interest in the CA Appraisal and the opposing view set out in the appellant's Built Heritage Statement⁴.
20. Wood Lane is a narrow, intimate highway leading off a main thoroughfare through the village. Beyond its northern end, it mainly comprises a mix of large, detached post-war houses, set back within heavily planted plots. It has a secluded, verdant character, with the entirety of its western side falling within the CA. The heavily planted boundaries and set-back positions of buildings gives the appearance of spaciousness within many plots.
21. The CA Appraisal identifies an 'important hedgerow' along the entire frontage of the appeal site. However, only part of this frontage is made up of hedgerow, as there are gaps for pedestrian and vehicular accesses and other portions without hedgerow. The existing hedgerow is shown to be removed on the proposed plans, with replacement hedging to be set further back within the site behind the northern visibility splay and around the garden area to Plot 3.
22. The proposed private access road and necessary visibility splays would have the visual effect of widening this part of Wood Lane, significantly altering the raised bank which currently forms the front boundary of the appeal site. The proposed private access road and its necessary steep banking and visibility splays would form an uncharacteristic, wide, hard surfaced opening off this narrow section of Wood Lane. This would harm the intimate and rural qualities

⁴ by Ward-Booth Partnership, Revision A

of Wood Lane. Replacement planting further back in the appeal site would not compensate for the loss of existing planting and the raised bank, which form a distinctive feature of the lane.

23. I note the appellant's evidence suggests that the front boundary of the appeal site has altered over time and that its position and hedging are not historic. Even if this was the case, the banking and planting of the front boundary currently makes a positive contribution to the character and appearance of the CA, as referred to within the CA Appraisal.
24. Although the architecture of the proposed dwellings would be appropriate for the area, the uncharacteristic, cramped arrangement of the proposed development within a significantly excavated site would be obvious. Much of the bulk of the proposal would be set back within the appeal site; however, its form and overall scale would dominate this part of Wood Lane and jar with the spaciousness of neighbouring plots. This effect would not be mitigated by planting due to the extent of development at different levels across the site.
25. The scale of the proposal would not therefore blend harmoniously with the prevailing character and grain of surrounding development. Together with the demolition of the appeal dwelling, this would harm the significance of the CA, which relies to an extent on its rural setting with locally distinctive historic buildings and includes hedgerows enclosing lanes. The proposal would harm the character and appearance of the area and would not preserve or enhance the character or appearance of the CA. The level of harm which would be caused to the significance of the CA would be less than substantial, as referred to by the Framework, and I attach significant weight to that harm.
26. The Framework advises that any harm to, or loss of significance of a designated heritage asset, should require clear and convincing justification. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
27. The only public benefits of the proposal I have been referred to would be the net increase of 2 houses in the context of the Government's objective of significantly boosting the supply of homes. I have not been referred to any lack of housing supply locally, and as such this public benefit would be modest. The public benefits of the proposal would not outweigh the harm which would be caused to the significance of the CA.
28. The proposed development would therefore conflict with Policies HE3 and HQ1 of the LP. These require, amongst other things, development to be of the highest quality and to respond positively to its context, with planning permission being granted for proposals which preserve, sustain, and enhance the special character, significance and appearance of heritage assets, reflect the existing character of the local area, and are of a scale which relates well to the existing local surroundings and reinforce local distinctiveness.

Living Conditions

29. The houses and garages proposed at Plots 2 and 3 would be sited close to the rear and side boundaries enclosing the rear garden of the neighbouring dwelling at Fircott, on Green Lane. Existing side boundary hedges would be retained. The proposed dwellings would have hipped roofs and ground floors

set below the existing ground level. The proposed garages would be single storey in height. The overall mass of these buildings sited close together along the rear and side boundaries of Fircott would largely enclose the rear garden to that dwelling. Taken together, the built form of Plots 2 and 3 would have an overbearing effect on the occupants of Fircott and would reduce their outlook. The impact would not be severe, but it would result in moderate harm to their living conditions, which would be unacceptable.

30. The north elevation upper floor window to the proposed dwelling at Plot 1 would be obscure glazed and could be required to be of restricted opening, which would prevent any unacceptable levels of overlooking of Westbank Cottages. The same would apply to the south elevation upper floor window of the proposed dwelling at Plot 2 and the east elevation upper floor windows of the proposed dwelling at Plot 3 in respect of neighbouring properties on Green Lane. The distances and angles between the front elevation windows of the proposed dwellings and neighbouring properties would be such that there would be no unacceptable levels of overlooking in that direction either.
31. The proposed alterations to land levels would mean the ground floor northern elevation windows to the proposed dwelling at Plot 1 would be located behind retaining walls. The appellant has also suggested 1.8 metre high boundary fencing would be erected. It would be unlikely that any overlooking would be possible from those windows beyond the appeal site's northern boundary.
32. The proposal would not therefore reduce the privacy of occupants of any neighbouring properties, but it would reduce the outlook of occupants of Fircott, causing unacceptable harm to their living conditions. This would be contrary to Policy HQ1 of the LP, which requires development to respond positively to its context and not have unacceptable adverse impacts on nearby existing uses, including impacts on amenity.

Highway Safety

33. The appellant has submitted a Technical Note⁵ as part of the appeal, which follows the Transport Statement⁶ forming part of the planning application. The Council has not commented on the Technical Note, which includes detailed explanations of how the gradient of Wood Lane and a speed survey were considered when calculating the need for proposed visibility splays of 2.4 metres x 22 metres to the north and 2.4 metres x 32 metres to the south. I see no reason to disagree with the comprehensive details set out in the Technical Note in these regards.
34. The Technical Note also provides a swept path analysis⁷ which shows that a fire tender would be able to enter the proposed access when approaching from the north and exit in a forward gear when heading to the south, meaning all parts of the proposed dwellings could be within 45 metres of a fire tender. This would presumably be dependent on the gradient of the access road. In the alternative, all parts of the proposed dwellings would be within 60 metres of a fire tender stationed on Wood Lane, where recent previous advice from Bedfordshire Fire and Rescue Service⁸ in respect of a different site, at Appendix

⁵ By Cotswold Transport Planning, dated November 2021

⁶ By Cotswold Transport Planning, dated March 2021

⁷ Plan reference: 21-0144 SP01 B

⁸ Letter dated 29 November 2019 from Emergency Response Planning Officer on behalf of Bedfordshire Fire and Rescue Authority to Luton Borough Council, planning application reference: 19/01415/OUT

F of the Technical Note, suggests a planning condition requiring the dwellings to be fitted with a sprinkler system would be acceptable.

35. The main parties agree that the proposed access road should not have a gradient steeper than 1:20 for the first 6 metres leading from the highway to comply with the Council's guidance⁹. Detailed plans have not been provided to demonstrate the proposed access road would be able to achieve this. It is not clear how the Council has concluded the first 6 metres of the proposed access road would have an approximate gradient of 1:11, and I note the Technical Note's suggestion that the proposed access road would be of sufficient length to accommodate the required gradients.
36. There are significant changes between the level of the highway and the parking areas which would serve proposed Plots 1 and 2, evidenced by the Topographical Survey¹⁰. In the absence of detailed information demonstrating the proposed access road would be able to achieve a gradient no steeper than 1:20 for its first 6 metres and accommodate a safe gradient for the entirety of its length, I cannot conclude the proposal would be capable of providing a safe and suitable access to the site for all users. In the absence of such information, the Topographical Survey leads me to doubt whether the proposal could avoid an unacceptable effect on highway safety.
37. The proposal would therefore conflict with Policy T2 of the LP and the advice set out in the Central Bedfordshire Design Guide (2014) and at paragraph 110 of the Framework. These advise that development should not have a detrimental effect on highway safety and safety for all road users should be taken into account when designing streets.

Biodiversity

38. The Council's Ecologist raised concerns relating to outstanding surveys for great crested newts and bats. A revised Preliminary Ecology Appraisal¹¹ (rPEA) was submitted as part of the appeal, seeking to address these concerns.
39. The rPEA confirms that an Environmental DNA test was carried out on the pond within the appeal site, which returned a negative result. It is explained that this, together with no other ponds being identified within a 500 metre radius of the site, indicates a likely absence of great crested newts within the site.
40. The rPEA explains that none of the buildings within the appeal site have features on the external façades or roofs suitable for use by roosting bats. It also explains that the appeal dwelling's roof tiles and eaves are tightly sealed and that there are no obvious entry points to the loft space for bats, despite a small number of bat droppings being found there. A dusk emergence survey undertaken in optimal conditions during the peak of the maternity season recorded no bats emerging from the appeal building. The rPEA therefore concludes a likely absence of bat roosts within the appeal dwelling.
41. In addition to the above, no trees within the appeal site were found to have crevices or holes suitable for use by roosting bats. Although bats are likely to forage and commute along the hedgerows and around the garden, the rPEA concludes that the appeal site is of low value for foraging and commuting bats.

⁹ Highway Construction Standards & Specifications Guidance, Central Bedfordshire Council, Issue 5 (July 2019)

¹⁰ Drawing number: 2021/983/09A

¹¹ By Samsara Ecology, Project number 091, Version 2, dated July 2021

42. Biodiversity enhancement opportunities are recommended by the rPEA, including the provision of insect, bird and bat boxes, a hedgehog dome, hedgehog holes, and various planting options. The proposed removal of trees and hedging and how this would impact upon the proposal's ability to achieve a biodiversity net gain are not discussed in detail within the rPEA. However, the rPEA has been produced by a suitably qualified ecologist and it concludes that the enhancement opportunities are recommended in accordance with the biodiversity net gain advice of the Framework.
43. The rPEA confirms the proposal would be capable of avoiding harm to protected species and of providing biodiversity net gain, subject to mitigation and enhancement measures. Further details of those measures could be required by condition to demonstrate how biodiversity net gain would be achieved.
44. The proposal would therefore be capable of according with policies HQ1 and EE2 of the LP and the advice of the Framework. These refer to the need for development to complement and enhance the existing natural environment and deliver a net gain in biodiversity.

Other Considerations

45. The Framework refers to the Government's objective of significantly boosting the supply of housing. The proposal would provide a net increase of 2 dwellings in a location within walking and cycling distance of a small number of local facilities and bus stops. There would be a benefit from the provision of a net increase of 2 dwellings, but I have not been referred to any figures which suggest there is unmet housing demand in this location. The provision of 2 additional dwellings therefore attracts modest weight. There would be opportunities to deliver a net gain in biodiversity and economic benefits associated with the construction works and 2 additional households living within the village. These benefits would be small in scale and therefore attract modest weight in favour of the proposal.
46. The Framework advises that substantial weight should be given to any harm to the Green Belt. I have identified harm which would be caused to the Green Belt on account of the proposal's inappropriateness and the harm which it would cause to the openness of the Green Belt. I have also identified other harms which would be caused to the character and appearance of the area, the living conditions of neighbouring residents, and highway safety. There are no other considerations which clearly outweigh the identified harm, so as to amount to the very special circumstances necessary to justify the proposal. The proposal would therefore fail to accord with Policy SP4 of the LP, the requirements of which are set out above.

Conclusion

47. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

L Douglas

INSPECTOR