



Appeal Decision

Site visit made on 31 August 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal Ref: APP/P0240/W/21/3287253

Land off Cobbitts Road, Maulden MK45 2ED

- 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 Mr J Gill of JC Gill Developments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/02465/OUT, dated 25 May 2021, was refused by notice dated 5 November 2021.
 - The development proposed is the erection of 6 detached dwellings with associated access road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline, with only details of access to be assessed now. In other respects, I have treated the accompanying plans as illustrative.

Main Issues

3. The main issues are:
 - The effect of the proposed development on biodiversity and protected species;
 - The effect of the proposed development on archaeological potential; and
 - The effect of the proposed development on highway and pedestrian safety.

Reasons

Biodiversity and protected species

4. The Council's second reason for refusal relates to the absence of ecological surveys to identify the impact of the proposed development on protected species, including specifically great crested newts (GCN), and that the scheme does not demonstrate net gains for biodiversity.
5. Policies EE2 and EE3 of the Central Bedfordshire Local Plan (LP, 2021) promote development proposals which avoid negative impacts on biodiversity and protected species. LP Policy EE3 requires that up-to-date comprehensive ecological surveys are undertaken to support and inform development proposals, demonstrating that development will deliver a net gain. Similarly,

Paragraph 174(d) of the National Planning Policy Framework (the Framework) states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

6. Two ecological reports were submitted in support of the appeal. The latest of these, dated May 2021, is the Preliminary Ecological Appraisal (the Appraisal), produced by Samsara Ecology. This identifies key ecological constraints, including the potential of habitats for protected species, and sets out opportunities for achieving a net gain in biodiversity.
7. Turning first to protected species, the Appraisal sets out that field studies were conducted for all potential species within the site boundaries. However, the study area was extended beyond the site boundaries where appropriate. In the case of GCN, the survey area was extended up to and beyond 500m of the site boundaries.
8. The Appraisal sets out a list of species for which there are suitable habitats. This includes terrestrial invertebrates, reptiles, nesting birds, foraging and commuting birds, badgers and hedgehogs. The potential for suitable habitats for GCN was not identified and GCN were consequently scoped out. Of these species, further surveys were recommended in order to identify the presence or absence of reptiles within the site. In the event that the site was found to support a good abundance of reptiles, mitigation and compensation measures would be required, including the identification and creation of a receptor site. The results of further surveys for reptiles were also requested by the Council's ecology team prior to determination. I have no such evidence of this before me.
9. Although the Council's reason for refusal relates specifically to GCN, the Appraisal does not highlight a potential habitat for this species on or near the site. I have no reason to disagree with those findings. Instead, the Appraisal identifies potential for reptiles, requiring further survey work.
10. The appellant has suggested that this matter could be dealt with by condition and that ecological surveys should only be required where clearly justified and be proportionate to the nature and scale of the development proposed. The appellant also refers to Permission in Principle, which is not the case here. As the Appraisal specifically identifies the need for surveys to be conducted to identify the presence or absence of reptiles, a possibility of presence is therefore identified and the Planning Practice Guidance indicates that where a significant impact could arise, surveys should be carried out in advance of an application being made. Without clarification, it is not possible to satisfactorily demonstrate that the proposed development would have an acceptable effect on the protected species or that it could meet the requirements of LP Policies in this respect.
11. Turning to net gains for biodiversity, I acknowledge the opportunities highlighted within the Appraisal. This includes the improvement and long-term management of off-site grassland of a size and quality similar to that which would be lost on site, as well as a financial contribution to a local habitat conservation body that manages grassland habitats.
12. These proposed measures are noted. Moreover, I acknowledge that the LP does not clearly specify the need for calculations in respect of net gains for

biodiversity and note that the site layout is indicative at this outline stage. Nevertheless, I have no substantive evidence before me that demonstrates that the proposed measures could realistically achieve net gain objectives, particularly as the Appraisal relies on off-site measures.

Consequently, there is insufficient evidence to demonstrate that the proposal would have an acceptable effect on biodiversity, in particular the protected species of reptiles, contrary to the relevant provisions of LP Policies EE2 and EE3. These policies, in summary, seek to ensure that development proposals avoid negative impacts on biodiversity and protected species. This is in a similar vein to the objectives of paragraph 174 of the Framework.

Archaeology

13. Although the appeal site is not subject to a formal designation, it is located in the historic core of the medieval settlement of Maulden. Therefore, the site has archaeological potential, as confirmed in comments from the Council's Archaeology Team.
14. The appellant states they are unaware of any archaeological remains on site and I note that no such reason for refusal was included in previous decisions at the site. Nevertheless, no desk-based assessment or archaeological field evaluation conducted by a suitably qualified person has been submitted with this appeal.
15. The appellant has suggested that a suitably worded condition would adequately deal with this issue. However, Framework paragraph 194 explains that proposals affecting assets of archaeological interest should be supported by an appropriate desk-based assessment and, where necessary, a field evaluation. Without such information it is not possible to assess the need for investigation, or the potential options for minimising or avoiding damage to archaeological remains, should they be present on site.
16. I, therefore, find there is insufficient substantive evidence for me to be certain that potential archaeological remains on the site could be appropriately safeguarded. While there are no relevant development plan policies before me in connection with this matter, the proposed development would be contrary to the relevant provisions of paragraphs 189 and 194 of the Framework, which seek to ensure the conversion of heritage assets.

Highway safety

17. The appeal site comprises an undeveloped parcel of land, accessed via Cobbitts Road. Cobbitts Road is a residential cul-de-sac with a turning head at its western end.
18. Vehicular and pedestrian access to the proposed development would be via the existing turning head. A footway would exist to one side of the new access, connecting the development with the established footway within Cobbitts Road.
19. Whilst I note that a series of highways issues raised under the previous appeal¹ have since been resolved, and there is no dispute between the main parties on matters including the width of the access into the site and congestion, the Council's Highways Officer has nonetheless raised concerns around the

¹ APP/P0250/W/19/3219983

increased travel demands and change in nature of the existing turning head as a result of the proposed development. I note that the existing turning head is atypical in its design forming an 'L' shape rather than 'T' shape.

20. *Technical Note 01 – Response to Highway Authority Comments*, produced by Cotswold Transport Planning, dated August 2021, includes the results of a parking 'beat' survey, details in respect of forward visibility and access by servicing and emergency vehicles.
21. In respect of parking, the site is not subject to a controlled parking zone. Many of the residential properties near to the site have off-street parking in the form of a driveway, with informal parking also taking place within the street. During my early afternoon site visit I noted a reasonably high number of parked cars along Cobbitts Road, including some on the pavements. This was in addition to cars parked on driveways. The volume of cars is likely to be higher in the evenings and at weekends.
22. The submitted parking survey concludes that there are significant levels of on-street parking throughout Cobbitts Road, effectively narrowing the highway. Moreover, it notes the narrow pavements are further compromised by parked cars. The report acknowledges that private driveways exist but are often narrow, leading to higher levels of on-street parking. I have no substantive basis to consider differently. These findings accord with my own observations during my site visit, albeit I acknowledge this was a snapshot in time. Irrespective of this, I have no substantive evidence before me that concludes that parking levels were unduly influenced the COVID-19 pandemic.
23. The proposed development would undoubtedly increase the travel demands of the existing Cobbitts Road, including the volume of both vehicles and pedestrians that would need to use it to access the site. However, notwithstanding the existing constraints which already limit the width and useability of established pavements, the proposed development would provide a maximum of 6 additional properties, each indicatively shown as providing two parking spaces. It is therefore unlikely that numbers of pedestrians using this route, or the number of parked cars in the highway, would rise by a significant volume as a result of the proposed development. There is no substantive evidence before me to indicate that there are, or would be, any issues relating to pedestrian safety either at present or as a result of the proposed development. Moreover, the highways authority has raised no objection in respect of this matter.
24. I note the comments made in respect of forward visibility and access for servicing and emergency vehicles. I concur with the appellant that the bend in the road is already present, and visibility would not be significantly worsened as a result of the proposed development based on likely low level vehicle speeds at this location. The ability for large vehicles to turn within a new turning head, instead of at the atypical arrangement at the western end of Cobbitts Road, is likely to be an improvement on the current arrangement and avoid potential conflict. I am therefore satisfied in those respects.
25. Consequently, I conclude that matters relating to servicing and emergency vehicles together with forward visibility and pedestrian safety are acceptable. The proposed development would therefore accord with the relevant provisions of LP Policy T2. This policy, in summary, seeks to ensure that development

proposals do not have a detrimental effect on highway safety or patterns of movement.

Other Matters

26. I note that the site does not lie within a conservation area or near to a listed building. It is not defined as a coalescence gap or other important countryside gap and that character and appearance, the principle of development, the mix of dwellings and layout are not matters of contention. It may well be that the proposed development meets a number of other planning policy objectives and design guidance, but this lack of harm is neutral in the planning balance.
27. My attention has been drawn to appeal decision APP/P0240/W/21/3289401 to a site at Stotfold. In particular, to matters relating to housing supply. Within this decision it is concluded that the Council cannot demonstrate a five-year supply of housing land, although this is very close to the five year figure.
28. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework paragraph 11.d are engaged. In this case, this indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
29. There would be economic and social benefits of the scheme including providing a contribution to housing at the site adjoining the boundary of the large village of Maulden, providing employment during construction and boosting spend in local businesses and services following occupation. However, these benefits would, either individually or cumulatively, inevitably be limited due to the overall scale of the proposed development. Nevertheless, the Framework indicates that the conservation of heritage assets should be accorded great weight and impacts on biodiversity should be minimised. Accordingly, the harm identified within the main issues significantly and demonstrably outweighs the benefits of the scheme.

Conclusion

30. For the reasons above, having regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A. Price

INSPECTOR