



Appeal Decision

Site visit made on 22 November 2022

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/P0240/W/22/3296405

Land adjacent to 1 Bates Avenue, Arlesey SG15 6RA

- 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 Mr James Angus of Cala Homes (North Home Counties) Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/05238/FULL, dated 24 November 2021, was refused by notice dated 9 February 2022.
 - The development proposed is the erection of one net-zero carbon residential dwelling, relocation of visitor parking and alterations to play area and open space approved under application CB/18/00399/RM.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effects of the proposal on the provision of public open space.

Reasons

3. The appeal site is located at the front of a recently constructed housing estate known as Arlesey Grange. The site is adjacent to the development's main access road and fronts onto the High Street. A close-boarded timber fence is sited along the side boundary between the site and an existing semi-detached dwelling and rear garden. The development's show home is located to the rear of the site.
4. The appeal site presently consists of an area of mown grass land, planted borders, on-street parking bays and a temporary car park serving the show home. From my site visit I found that whilst most dwellings appear complete and occupied, the presence of the show home and house builder's promotional sales signage along the front boundary suggests the site is not fully occupied.
5. Details of the site's planning history indicates that the appeal site is intended to provide public open space and a children's play area to serve the wider Arlesey Grange development. Provision of the public open space was secured at the outline application stage through a planning condition set out in a s106 agreement¹.
6. The planning obligation requires provision of public open space, as indicated on a concept plan for the Arlesey Cross Allocation and required the developer to

¹ Central Bedfordshire Council reference: CB/16/01608/OUT

submit a scheme for the design of the public open space to the Council for its written approval. The design of the public open space was considered at the Reserved Matters stage and is indicated on the site layout plan relating to that planning permission².

7. From my site visit I found that the appeal site is open and accessible, but the play equipment and landscaping features indicated on the layout plan have not been sited. Construction of the public open space was therefore incomplete at the time of my site visit.
8. The appeal proposal would involve the construction of a dwelling on land identified as public open space on the site layout plan for the Arlesey Grange development. The appellant's statement asserts that the concept plan sets out only high-level parameters for the development of the Arlesey Cross Allocation, and the extent of the public open space shown on the concept plan is not intended to be prescriptive. However, I consider the site layout plan approved at the Reserved Matters stage is prescriptive since the granting of planning permission was predicated on its terms.
9. As per the requirements of the s106 agreement, the open space must be constructed prior to total occupation of the site. Therefore, since the layout has been approved through the granting of planning permission and the Arlesey Grange development has been implemented and is substantially complete, I consider that the appeal proposal would lead to a loss in the quantity of public open space.
10. The appellant's statement indicates that the layout of the public open space could be altered through a Deed of Variation to the s106 agreement and has entered into discussions with the Council. However, I have no evidence before me to indicate what decision the Council may take on such an application.
11. The appellant's statement suggests the proposal would result in a loss of more than 15% of the total area of the public open space, which I consider to be a sizeable reduction and not minor in scale. Para. 99 of the National Planning Policy Framework (the Framework) states that existing open spaces should not be built on unless the open space has been shown to be surplus to requirement, or the loss would be replaced by equivalent or better provision in terms of quantity and quality. The appeal proposal does not demonstrate that the public open space is surplus to requirement and would not replace the quantity of open space lost.
12. The appellant's statement suggests the public open space described by the appeal proposal would be of higher quality than the permitted scheme, with a larger active area of play consisting of play equipment and 'rain garden' features. There is disagreement between the parties as to whether such water attenuation features and SUDs would enhance the quality of recreational use of the play area. In the absence of a risk assessment, I consider the inclusion of such features is of neutral weight and therefore would not enhance the quality of the scheme.
13. As set out above, I have found the proposal would result in a reduction in the quantity of public open space and would not enhance the quality of the public open space as an area for recreation. The proposal would therefore conflict

² Central Bedfordshire Council reference: CB/18/00399/RM.

with policy EE13 of the Central Bedfordshire Local Plan 2021 (CBLP) and paragraph 99 of the Framework which protect against the loss of quantity and quality of public open spaces and would be contrary to CBLP Policy HQ1 which requires development to promote healthy lifestyles through the design and layout of the development.

14. In addition, the proposal would conflict with Arlesey Neighbourhood Plan (2017) policies ARL2 and ARL9 which require proposals to satisfy the Council's requirements for open space provision.

Other Matters

15. The proposal would involve the construction of an additional dwelling and would therefore make a minor contribution to the supply of dwellings in the area. The proposed dwelling would include a range of technologies to conserve energy, heat and water resources to achieve a 'net-zero' standard and would, where possible, be constructed from locally sourced materials. Chapter 14 of the Framework is supportive of development which contributes to a reduction in carbon and greenhouse gas emissions, and as such I consider the provision of the net-zero dwelling carries moderate weight.
16. The proposed scheme would increase the distance between play equipment and existing dwellings. This benefit is of limited weight as the proposal's siting of the play equipment 11.5m from an existing dwelling would fall significantly short of the 20m buffer zone required by the Council.
17. The appeal proposal indicates that the proposed planting scheme which includes a greater proportion of native plants, additional trees and the rain garden features would deliver a modest enhancement to biodiversity, where compared with the approved scheme. It is unclear why delivery of this enhanced planting scheme is dependent on the approval of the appeal proposal, but nevertheless carries modest weight in favour of the proposal.
18. The appellant's statement refers to pre-application discussions with the Council which indicated that a new dwelling would be acceptable in principle in this location and in this instance, a loss of amenity land could be justified. However, such advice is not binding on a Council and whilst I have had regard to this as a material consideration it does not lead me to a different conclusion.

Conclusion

19. The scheme would deliver some benefit through the provision of a net-zero dwelling, biodiversity enhancement, and increased siting from existing dwellings. However, I do not consider that the extent of such benefits would outweigh the harm I have identified in respect of the reduction in the quantity of open space which has not been demonstrated to be surplus to requirement nor compensated through the provision of alternative open space elsewhere, as required by the Development Plan and the Framework.
20. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR