



Appeal Decision

Site visit made on 15 November 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2022

Appeal Ref: APP/Y0435/W/21/3286461

34 Gravel Walk, Emberton MK46 5JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jake Green against Milton Keynes Council.
 - The application Ref 21/01130/ful, is dated 14 April 2021.
 - The development proposed is a new detached family dwelling with attached single garage.
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Decision

1. The appeal is allowed and planning permission is granted for a new detached family dwelling with attached single garage at 34 Gravel Walk, Emberton MK46 5JA in accordance with the terms of the application, Ref 21/01130/ful, dated 14 April 2021, subject to the conditions set out within the attached schedule.

Preliminary Matters

2. The evidence before me is that the draft Emberton Neighbourhood Plan (NDP) has not yet been subject of examination. Given the stage it is at, and that it is not known whether there are any unresolved objections, the weight that can be attributed to the draft NDP is limited.

Background and Main Issues

3. Within their statement of case the Council indicate that had an appeal not been lodged they would have refused the application. They have provided a statement of case and putative reason for refusal, within which their concerns are identified.
4. The main issues in this appeal are;
 - the effect of the development upon the character and appearance of the area; and,
 - whether or not the site is suitable for residential development having regard to its location and the settlement strategy.

Reasons

Character and appearance

5. When compared with the large fields beyond, the appeal site comprises a small, grassed enclosure on the edge of the village of Emberton. It is located at the top end of a residential street known as Gravel Walk. 2 Public Rights of Way (PROW's) cross the appeal site between Gravel Walk and the countryside

beyond. From High Street towards the appeal site the ground level rises. Within the appeal site and field beyond it rises much more gently.

6. There are substantial hedgerows and planting on parts of the site's southern boundary, and its western boundary. These, when considered in combination with the site's size and location between the houses at numbers 34 and 17 Gravel Walk, give it a good level of enclosure. The character and appearance of the site is therefore distinctive from that of either the rural countryside beyond, or the more developed land within Gravel Walk.
7. From the field beyond the appeal site, much of the development within the village of Emberton is afforded substantial screening by hedgerows and trees. A notable exception to this is the house at number 34 Gravel Walk (number 34). This is largely due to the absence of any significant screening features; along parts of the site's southern boundary; within the appeal site; and between the appeal site and number 34.
8. The implementation of the proposed development, which would largely obstruct views of number 34 from the field beyond the appeal site, would not lead to any significant change in the perception of or views of development in this area of the village. Instead, the proposal to supplement planting along the southern site boundary would improve the visual screening of development within this part of the settlement. The development would therefore enhance the character and appearance of the area, rather than representing an incongruous addition. I accord this significant weight.
9. In terms of its scale, design, external materials and siting, the proposed house would relate satisfactorily to other houses along Gravel Walk. It would not therefore be harmful to the character and appearance of the streetscene within Gravel Walk.
10. For the reasons given above, the development would not harm the character and appearance of the area. Consequently, it would accord with the aim of Policy NE5 of the Milton Keynes Council Plan:MK 2016-2031 (the Local Plan), to ensure that development conserves and enhances landscape character. It would also comply with the objective of chapter 12 of the National Planning Policy Framework (the Framework) to achieve well-designed places.

Location of development

11. The appeal site is adjacent to the built edge of the village of Emberton. Within and adjacent to the site's western boundary is located a single storey timber clad building with a clay tiled roof. I am advised by the appellant that this was formerly a stable. From my observations on site, I have no reason to doubt this.
12. Policy DS1, of the Local Plan seeks to focus new development for jobs and homes to settlements, and to where there may be selective infill, brownfield, regeneration and redevelopment opportunities. Although within table 4.2 of Policy DS1 it is indicated that the Milton Keynes City area may have opportunities for brownfield development, the wording of the policy does not exclude village and rural settlements from such opportunities, nor does it exclude sites which are outside of defined settlement boundaries.
13. Local Plan Policy DS2 seeks to focus housing development within the borough to certain areas. However, it does not preclude residential development beyond

these areas. Local Plan Policy DS5 indicates that all land outside the development boundaries defined on the policies map should be considered to be open countryside. In such areas it is indicated that planning permission will only be granted where it can be demonstrated that one of a number of exceptions apply. One of these is where other policies within the plan indicate that the development would be appropriate.

14. The proposals maps forming part of the Local Plan indicate the appeal site to be adjacent to but outside of the settlement boundary of Emberton. However, the draft NDP indicates that approximately half of the site would be within its defined settlement boundary. Given the limited weight that can be applied to the NDP at this stage, and in the context of the Local Plan, the site is currently deemed to be within an open countryside location.
15. Due to its proximity to the core of the village and the presence of pavements alongside Gravel Walk and beyond, the site is readily accessible by means other than private vehicle to any services and facilities available within the village of Emberton. Furthermore, an additional house would make a contribution towards supporting the local community and any local services available within the village.
16. The appellant indicates that the appeal site constitutes previously developed land (PDL). The Council do not dispute that there is PDL within the site. However, they indicate that this classification doesn't mean that the whole of the site should be developed. Their reasoning is that the building within the site is small relative to the overall site area, and that within the definition of PDL at Annex 2 of the Framework, it is indicated that 'it should not be assumed that the whole curtilage should be developed'.
17. It is proposed that the entire site be re-developed. However, the section between the PRoW's would remain free from building operations and could be maintained as such by an appropriately worded condition. Furthermore, this area would be separated from the house via a hedgerow and fencing, preventing any unacceptable level of enclosure for users of the PRoW's.
18. I have previously concluded that the appeal scheme would not cause harm to the character and appearance of the area. no compelling evidence has been presented demonstrating why in this case the proposed development should not occupy the appeal site, having regard to its status as PDL.
19. Consequently, I find that the proposed development would result in the appropriate redevelopment of previously developed land on the edge of the village of Emberton. It would comply with the part of Local Plan Policy DS1 that indicates that housing proposals should make use of brownfield development opportunities. It would also comply with Local Plan Policy DS5, as an appropriate exception for development in an open countryside location. Furthermore, it would not conflict with Local Plan Policy DS2. In addition, it would comply with paragraph 85 of the Framework, where it is indicated that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Other Matters

20. The proposed development on PDL would be in accordance with the development plan. As such there is no reason to conclude that the allowance of this appeal would open the floodgates for other development on land adjacent to settlement boundaries. Instead, each scheme should be assessed upon its own merits.
21. No concern has been raised by the Council regarding the effect of the development on the living conditions of the occupiers of neighbouring properties, or on any future occupiers of the proposed dwelling. Based on the evidence before me, I have no reason to take a different view. Adequate provision has been made for car parking within the site, and no compelling evidence has been presented demonstrating that the development would increase parking stress within the area.
22. Concerns have been raised that the development would increase flood risk, and that there is insufficient sewage capacity. From the evidence before me, I am satisfied that the site is within flood zone 1. Given the extent of the site area; that the dwelling and parking areas would cover significantly less than half of the site; and, the proposal to utilise a crate system to attenuate surface water, I accept that it would be possible for the development to be undertaken without resulting in any increase to surface water run-off rates from the site. However, a condition requiring details of percolation testing and an associated surface water drainage scheme would be required. No cogent evidence has been presented to demonstrate that there is insufficient sewage capacity within the area to accommodate a single additional dwelling.

Conditions

23. The statutory condition which specifies the time-period for the implementation of the permission is imposed. For clarity, a plans condition is also imposed which identifies the plans to which the permission relates.
24. The wording of conditions has been amended where appropriate. This is for the purposes of clarity and to meet the six tests outlined within paragraph 56 of the Framework.
25. A materials condition is imposed to protect the character and appearance of the area. Conditions are also imposed to secure the implementation of sustainable construction methods, the provision of an electrical vehicle charging point, and details of proposed superfast broadband infrastructure. These are to minimise the energy and resource requirements of the development both during and post construction and to maximise the use of renewable energy sources, and to improve digital communications within the Borough.
26. Conditions requiring details of hard and soft landscaping proposals and of proposed finished floor levels are required. These are to ensure that the development does not harm the character and appearance of the area, and to prevent harm to the living conditions of the occupiers of neighbouring properties or users of the PRow's within the site.
27. Conditions requiring the provision and retention of car parking and turning spaces and bicycle parking are necessary, in the interests of highway safety and sustainable transport promotion. I have not been provided with the Milton Keynes Council's guide note "Residential Vehicle Crossing Details", and cannot

therefore conclude that the 4th condition suggested by the Council is necessary. Furthermore, any consents that may be required in connection with the proposal to make alterations to the highway to facilitate the proposed access are outside of the scope of this decision.

28. A condition preventing the construction of any new hedgerows within 1metre of the PRow's is necessary to ensure that the development does not cause obstruction and prevent harmful enclosure of the PRow's.
29. In order to prevent the development from increasing flood-risk, a condition is imposed, requiring results of percolation tests and an associated surface water drainage strategy to be submitted to and approved in writing by the Council.
30. A biodiversity condition is imposed to ensure that as a result of the development, local biodiversity and ecology is maintained and enhanced.
31. The Council have suggested that permitted development rights which would allow the future construction of outbuildings and the enlargement, improvement or other alteration of the dwellinghouse be removed. In order to both protect the character and appearance of the area and the enjoyment of users of the PRow network, it is necessary and appropriate to remove the permitted development rights for the construction of buildings incidental to the enjoyment of the dwellinghouse. However, no compelling case has been made to justify the removal of the permitted development rights for the enlargement of the house. Therefore, I have imposed a condition restricting buildings incidental to the enjoyment of the dwelling but not restricted future permitted development rights for the enlargement of the property.

Conclusion

32. For the reasons given above, this appeal is allowed and planning permission is granted subject to the conditions outlined within the attached schedule.

V Simpson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 469-001 Rev A, 469-002 Rev A, 469-003 Rev A, 469-004 Rev A, 469-005 Rev A and 469-006 Rev A.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 469-005 Rev A and as indicated at section 7 of the application form.
- 4) No development shall take place until details of how the scheme will be sustainably constructed in accordance with Parts A-J, L and M, of Policy SC1 of the Milton Keynes Council Plan: MK 2016-2031, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed dwelling, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Notwithstanding condition 2, no development shall take place until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include;
 - existing and proposed finished site levels;
 - boundary treatments; and
 - hard surfacing materials.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

- 7) Notwithstanding condition 2, no development shall take place until details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include;
 - Details of all existing trees and hedgerows on the on the land, identification of those which are to be retained and measures for their protection during the course of the development;
 - planting plans;
 - written specifications (including cultivation and other operations associated with plant establishment);
 - schedules of plants noting species, plant supply sizes and proposed densities.

The landscaping works shall be carried out in accordance with the approved details, and shall be completed within one year of the first occupation of the dwelling.

If within a period of 2 years from the date of planting of any trees or shrubs, those trees or shrubs, or any trees or shrubs planted in replacement, is removed, uprooted, destroyed, dies, or becomes severely damaged or diseased, they shall be replaced in the next planting season with trees or shrubs of equivalent size, species and quantity.

- 8) The dwelling shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- provide information about the design storm period and intensity,
 - the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - include a timetable for its implementation; and,
 - provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) The dwelling shall not be occupied until space has been laid out within the site, in accordance with drawing no.469-001 Rev A for bicycles to be parked. That space shall thereafter be kept available for the parking of bicycles.
- 10) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. 469-001 Rev A for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for those purposes.
- 11) The dwelling shall not be occupied until the provision of one electrical vehicle charging point has been provided on site. It shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.
- 12) Prior to the occupation of the dwelling, details of how superfast broadband infrastructures will be delivered to the development, subject to network capacity being available, shall be submitted to an approved in writing, by the Local Planning Authority. The approved broadband infrastructures shall be installed prior to the occupation of the dwelling.

- 13) All recommendations identified within section 4.2 of the Preliminary Ecological Appraisal Version 2 by Samsara Ecology dated September 2020 shall be implemented and completed no later than one year after the first occupation of the dwelling.
- 14) No new hedges are to be planted within 1metre of the existing public rights of way within the site.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development covered by Class E of Part 1 of Schedule 2 to that Order shall be carried out without the specific grant of planning permission.

End of conditions