



Appeal Decision

Site visit made on 24 July 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/P0240/W/23/3315083

Bendbrooke House High Street, Tingrith, MILTON KEYNES MK17 9EN

- 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 Hamilton against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/02211/OUT, dated 30 May 2022, was refused by notice dated 22 July 2022.
 - The development proposed is Erection of a new two storey dwelling following demolition of the existing side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been made in outline form with all matters reserved. The application form describes the dwelling as being two-storey and having three bedrooms. The proposed block plan, reference LB-0303 rev A, shows the footprint of the proposed dwelling. This provides a useful illustration of one way that the site might be developed for this relatively large family dwelling. However, as all matters are reserved, I have taken the block plan as indicative only and have only it afforded limited weight. I shall consider the appeal on this basis.
3. The Appellant asserts that the Council was wrong to consider the effect of the proposal on the ecological matters, suggesting this can be dealt with at a later stage. However, the assessment of an outline proposal must satisfy the decision maker that the scheme can be accommodated on site. This is required to satisfy the issue of principle as the outline permission is the planning permission for the scheme. Detailed matters (that might include ecological mitigation) could be provided at the reserved matters or condition stage. Nonetheless, it is incumbent upon me to assess at the outline stage, any material considerations that might jeopardise whether acceptable development could be capably devised following outline consent being given. I shall approach RfR3 in this manner.

Main Issues

4. The main issues are:
 - whether the proposed dwelling 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 proposal on the openness of the Green Belt;

- The effect of the proposal on the character and appearance of the area;
- The ecological effects of the proposal; and
- if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

5. The development plan for the district includes the Central Bedfordshire Local Plan [2021] (LP). LP policy SP4 states that development will be assessed against national Green Belt policy where there is a general presumption against inappropriate development. Paragraph 149, of the Framework, establishes that buildings in the Green Belt would be inappropriate unless they would meet a listed exception. Paragraph 149(d) allows for the replacement of a building provided it is in the same use and not materially larger than the one it replaces. Paragraph 149(e) refers to limited infilling in villages. The Appellant asserts that the proposal would accord with either 149(d) or 149(e).

Replacement building

6. The proposed dwelling would require the demolition of an existing single-storey element attached to the side of the existing dwelling and the subdivision of the plot. Whilst the proposal is in outline form, the evidence clearly illustrates that the replacement dwelling is intended to have a larger footprint, have three bedrooms and be two-storey. Therefore, although being in the same use, the replacement building would be substantially taller and greater in mass than the existing building. As such, in being materially larger, the proposal would be inappropriate development by virtue of paragraph 149(d).

Limited infilling

7. Paragraph 149(e) states that limited infilling in villages is not inappropriate development. The terms 'limited' and 'infilling' are not defined in the Framework, nor is there any guidance there to assist that exercise of planning judgement. Whereas, supporting commentary to LP policy SP4 defines infill development as "small-scale development in an otherwise built-up frontage". Although not contained in policy, this definition a useful understanding of the Council's general approach to such matters. Whether the site would constitute limited infilling is therefore a matter of fact and planning judgement taking the site context into account. Such consideration requires an assessment as to whether the site falls within the village, whether it would be limited and whether it would infill a space between existing built form.
8. Tingrith, is a small village that is not identified within the Council's hierarchy of settlements as being suitable for growth. Upon approaching the village from the northeast, dwellings appear first as dispersed buildings within a countryside setting. These include New Road Farm, a pair of semi-detached dwellings, the appeal site and two dwellings alongside Manor Farm. These buildings present themselves as structures that are separate to the village by fields, open space and distance. The village itself, further along High Street, appears to mostly cluster around The Church of St Nicholas.

9. The settlement pattern of buildings around the appeal site are sporadic and loose knit in character. These do not share the same connected characteristics of dwellings within the village itself. Due to the loose knit character, the site appears to be beyond the settlement limits. Consequently, the appeal site does not have a clear functional or visual link to the village and falls outside the village for policy purposes.
10. Furthermore, the adjacent access tracks and open spaces create a sense of separation between the host dwelling and nearby built form. As such, whilst the proposal would be for one dwelling and thus 'limited', it would not infill a gap in an otherwise built-up frontage and would erode the existing gap in built form. Consequently, the proposal would not represent limited infilling within a village and would therefore not accord with paragraph 149(e).
11. As it has not been demonstrated that the proposal would meet an exception listed in Paragraph 149 of the Framework, it would be inappropriate development in the Green Belt in conflict with LP policy SP4.

Openness

12. Considerations of openness have both visual and spatial aspects. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Tingrith is 'washed over' by the Green Belt. This demonstrates that the village may not be suitable for new development due to the important contribution its open character makes to the openness of the Green Belt as explained by paragraph 144 of the Framework.
13. The proposed dwelling would materially increase the quantum of built form within the plot. Consequently, in visual and spatial terms, the proposal would add a sizeable mass of built form to the streetscene. The permanent addition to new development to the site would be prominent in the street. This would result in both harmful visual and spatial effects.
14. Accordingly, the proposal would encroach into the Green Belt and erode its openness.

Character and appearance

15. High Street consists of buildings and dwellings of various sizes and styles. The Tingrith Conservation Area is adjacent to the site, consisting of traditional rural buildings within a countryside setting. Local dwellings are set within large, landscaped grounds within a verdant setting. Accordingly, the buildings around the site are dispersed within the open countryside and create a strong sense of spaciousness. The appeal site is part of an existing residential plot that is relatively large and contributes to the sense of spaciousness identified locally. As a result, the appeal site positively contributes to the surrounding area.
16. The proposed dwelling is in outline form with all matters reserved. As a result, limited information is available to appraise its effect on character. Nonetheless, the overall mass and form of the proposal can be understood from the submitted evidence. This demonstrates that the proposal would be two-storey and accommodate three bedrooms.
17. The appeal site is to the side of the existing dwelling. Due to the noted curve in High Street, the proposal would be highly visible in views to the southwest

along the highway. Although the appeal site is currently occupied by a structure of similar footprint, it is only single-storey and set behind existing landscaping and a boundary wall. It therefore has a limited effect on the spaciousness of the site. In contrast, the proposal would be a large structure that would occupy this prominent site. It would partly infill a gap formed above the existing single-storey element and enclose the space formed by the adjacent access tracks and landscaped area. As a result, the proposal would be a dominant and strident feature in the streetscene and undermine the current sense of space of the plot.

18. The proposed dwelling would also crowd the host building on site and be within a comparatively small plot. This proximity to its neighbour and the size of the proposed plot, would be out of character with the spaciousness evident within most surrounding plots. Accordingly, the proposal would be out of keeping with the rural character of existing development and its dispersed development pattern.
19. As a result, the proposal would harm the character of the site and its surrounding area. It would therefore conflict with LP policy SP7. This seeks, *inter alia*, to resist development outside settlement envelopes that would harm the intrinsic character and beauty of the countryside.

Ecological matters

20. The proposal includes the demolition of a single storey element of the host dwelling that includes a tall, pitched roof for a building within a rural setting. The structure may include raised roof tiles and gaps that would be suitable for bats to gain entry. It also appears to include a roof void that could accommodate a bat habitat.
21. The Framework requires development to protect and enhance biodiversity. It states, at paragraph 180, that where significant harm to biodiversity cannot be avoided by proposed development planning permission should be refused. Species protected under the Habitats Regulations [2017], including all species of bats, are subject to a high level of legal protection.
22. Circular 06/2005, regarding Biodiversity and geological conservation, states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say 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 the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision*". The Circular states that surveys should be carried out before planning permission is granted and that these should only be required by condition in exceptional circumstances.
23. There appears to be a reasonable likelihood that bats are present in the roof, a view shared by the Council's ecologist, and no evidence is before me to assert to the contrary. Therefore, it would be necessary for the proposal to be submitted with a preliminary bat roost assessment. Although such a survey could become out of date during the making of a reserved matters application, an addendum survey could be submitted by planning condition to maintain its validity.

24. As a result, in the absence of a bat survey at the outline stage it has not been demonstrated that the proposal would not harm a protected species. Consequently, the proposal would conflict with LP policy EE3 and the Framework. These seek, among other matters, for development to prevent an adverse effect on protected species.

Other considerations

25. The proposal would attract economic and social benefits to the area, both during construction and once occupied, by future occupiers using local facilities. These benefits would weigh, albeit to a limited extent, in favour of the proposal.
26. The Framework seeks to locate development in locations that would limit the need to travel and offer a genuine choice of transport modes. The proposed dwelling would be located close to the village amongst a dispersed form of development. Occupiers would have access to a local bus service and could cycle to large local towns such as Flitwick. It is also recognised by the Framework that options to maximise public transport will vary between rural and urban areas. However, occupiers of the proposal would be highly reliant on the private car to access services. As such, the site offers limited locational benefits and is of low accessibility merit.
27. The Appellant has submitted an appeal decision¹ that illustrates that, in August 2022, the Council could not demonstrate a 5-year Housing Land Supply (HLS). Nonetheless, the Council's latest land supply position statement², January 2023, demonstrates it has a 5.37-year supply. The Appellant has responded that the Council has incorrectly counted over delivery in its latest figures, a matter which the Inspector previously addressed as an incorrect framing of the housing requirement. Even if the Council cannot demonstrate it has a 5-year HLS, and its housing related policies were deemed to be out-of-date, the proposal has been found to be inappropriate development. This provides a clear reason to refuse permission. Accordingly, by virtue of Paragraph 11(d) of the Framework, the tilted balance (if engaged) would be disapplied in any event.
28. The proposal would deliver a windfall site that would contribute towards the Council's potential housing shortfall. However, whilst weighing in favour of the scheme, one dwelling would make only an extremely limited contribution towards this supply.

Whether there would be Very Special Circumstances

29. Paragraphs 147 and 148 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
30. I have concluded that the proposed dwelling would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the proposal would result in harm to the openness of the Green

¹ Planning Appeal Reference: APP/P0240/W/21/3289401

² Five Year Housing Land Supply Statement form 1st July 2023

Belt and would harm the character and appearance of the area. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.

31. On the other hand, the other considerations are of limited weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.

Conclusion

32. For the above reasons, the appeal should be dismissed.

Ben Plenty

INSPECTOR