



Appeal Decision

Hearing (Virtual) held on 28 November 2023

Site visit made on 30 November 2023

by D Wallis MRTPI, BSc (Hons), PGDip (Environmental Planning)

an Inspector appointed by the Secretary of State

Decision date: 11th December 2023

Appeal Ref: APP/H0520/W/23/3327277

Land Northwest of Chequers Close, Alconbury Weston, PE28 4LE

- 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 Mark Richard Tolner against the decision of Huntingdonshire District Council.
 - The application Ref 22/01350/OUT, dated 18 June 2022, was refused by notice dated 27 February 2023.
 - The development proposed is Rural Exceptions Residential Development for up to 15 dwellings with all matters reserved except access and layout (re-submission of 21/01343/OUT).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form was the erection of 15 dwellings including new access. A written agreement was made between the appellant and the Council on 13 July 2022 for a change of the description to rural exceptions residential development for up to 15 dwellings with all matters reserved except access and layout. There was much debate in the Hearing around whether the term 'rural exceptions' had any specific meaning other than in the context of a planning policy. Whilst I shall return to this later in my decision, it was agreed to proceed with the description of development as it appeared on the face of the decision notice.
3. Notwithstanding the description, it was verbally confirmed that the layout shown on the submitted plans was indicative and that the main parties were treating it as a reserved matter. I have determined the appeal accordingly.
4. A legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted with the appeal. This is considered in more detail below.

Main Issues

5. The main issues for the appeal are:
 - whether or not the proposal would make sufficient provision for affordable housing;

- the effect of the proposed development on the living conditions of existing occupiers in Chequers Close, particularly from noise and disturbance; and
- effects of the development upon social infrastructure.

Reasons

Affordable Housing

6. Policy LP28 of the Huntingdonshire District Local Plan 2019 (the Local Plan) provides criteria for assessing schemes for rural exceptions housing. The policy requires a minimum of 60% of the overall site area to be allocated for affordable housing units for people with a local connection. The number and size of units would be required to meet an identified need arising from a specific settlement, derived via a local needs survey.
7. A housing needs survey was carried out by the Council in 2020, which determined that there was demand for a total of 9 affordable units within the village of Alconbury Weston. A development at Butcher's Close¹ in that village was approved by the Council providing all of the required affordable units, thus fulfilling the locally identified need of this settlement.
8. The appeal development is for a total of 15 dwellings of which 9 would be affordable units and the remaining 6 would be market housing. Whilst originally targeted at meeting the local need of Alconbury Weston, the appellant stated that the strategy changed once the Butcher's Close development had been permitted. The strategy switched to focusing on meeting district-wide need instead and, in order to swing the planning balance in its favour, the appellant offered that all 15 units would be affordable housing.
9. The appellant's evidence at appeal was consistent with the rhetoric at application stage, stating the proposal was to contribute towards meeting district-wide need. In this vein, the appellant maintained that 9 dwellings (60% of the units proposed) would be a significant contribution and would carry substantial weight in the planning balance exercise. Nonetheless, the appellant provided optionality in the submitted legal agreement to enable all 15 dwellings (100%) to become affordable units if it was considered necessary to outweigh conflict with the Development Plan.
10. In the Hearing, it became apparent that the Council and the appellant had common ground insofar as policy LP28 was concerned. With the local need for affordable housing having already been met, the proposal would fail to meet the terms of policy LP28. With no dispute on the results of the housing need survey nor the deliverability of the Butcher's Close development, I have no reasons to find otherwise.
11. The Council suggested that the decision-making process should stop at that point because the proposal for district-wide affordable housing had not been assessed on its merits. However, written evidence that this offer was considered at application stage is contained in the Council officer's report². At that time, the Council determined that as there was no legal agreement to secure the 100% offer, it should not be taken into account.

¹ Planning permission 21/02027/OUT

² Pages 11 and 20 of the report for 22/01350/OUT

12. I accept that submissions made during determination of the planning application and at the onset of the appeal made clear the appellant's intentions that the development would focus on meeting district-wide need. Therefore, I am determining a scheme that is not planned for under policy LP28. In doing so, I am content that there is sufficient information in the Council officer's report, the appeal statements of case from the main parties and gathered from the oral Hearing to facilitate my deliberations on this point.
13. The appeal site is outside the settlement boundary for Alconbury Weston, which is defined as a small settlement under Local Plan Policy LP2. Policy LP2 sets out a clear spatial strategy for development, focusing on delivering new growth to the market towns, key service centres and finally smaller settlements. Under the policy, rural exception and windfall schemes will be permitted on sites that are in conformity with other policies in the plan providing further flexibility. Policy LP9 states development outside of, but well-related to, smaller settlements may be supported where they accord with specific opportunities allowed through other policies of the plan.
14. I note from the Council officer's report that whilst the appeal site is well-related to the built-up area of Alconbury Weston³, services for day-to-day living are very limited in the village. Combined with the policy emphasis in LP10 to limit countryside development to those specific opportunities in the Local Plan, the Council stated the revised proposal would not be permissible in this smaller settlement.
15. The only policy that could lend support to the proposal is LP24, which generally supports the provision of affordable housing to meet the requirements of the community. To this extent, it is common ground between the main parties that there is currently an acute district-wide need for affordable units⁴ as evidenced through the Council's Annual Monitoring Report.
16. What policy LP24 does not do however is provide support or justification for market dwellings outside of a settlement boundary. Delivering market housing on the appeal site would be wholly contrary to the plan-led system and undermine the growth strategy of the Council, thus causing unsubstantiated harm to the countryside. The proposal for 9 affordable and 6 market houses would therefore be contrary to the Development Plan.
17. With regards to the proposal for 100% affordable housing, I again refer to the spatial strategy of the Council. Smaller settlements are, by their nature, considered less sustainable than those locations identified higher up the settlement hierarchy under policy LP2. Whilst the Council have noted that it is possible for the appeal development to access services and facilities in nearby Alconbury, this does not necessarily mean that Alconbury Weston is an appropriate location within which to provide 15 affordable dwellings.
18. I consider that a district-wide need should be addressed within reference to a district-wide strategy, and the strategy for the Council in policy LP2 does not favour development of this type in Alconbury Weston. Having distanced the proposal from policy LP28, the appellant has not demonstrated that the proposal would qualify as another development opportunity supported through the Local Plan, thus failing to comply with policy LP9. I consider that the

³ Page 11 of the Council Officer Report for 22/01350/OUT

⁴ Paragraph 11.1 and 11.2 of the signed Statement of Common Ground

support from policy LP24 would not carry sufficient weight to override the principles of the Council's other housing policies.

19. Referring to the development as an exception scheme in the description of development remains pertinent, because the proposal would be an exception to the Development Plan as a whole. Whilst I do attribute substantial weight to the additional affordable dwellings, particularly as their provision would be secured via the legal agreement, I consider there is greater weight to be afforded to the conflict and non-conformity with the Development Plan.
20. To this extent, whilst the proposal would make sufficient provision for affordable housing to contribute towards district-wide need, it would conflict with the spatial strategy of the Council by developing housing in an unpreferred location with limited access to services. The proposal would therefore be contrary to policies LP2, LP9 and LP10 of the Local Plan that seek to direct proportionate residential development to appropriate growth locations.

Living conditions

21. The appeal site is to the west of Alconbury Weston, and to the northwest of both Chequers Close and Wheatsheaf Road. It is proposed to access the appeal site via an extension of Chequers Close, removing part of the turning head element to this cul de sac. A new dwelling is proposed on land immediately north of No.3 Chequers Close with a play area abutting the boundary with No.6 Chequers Close. The highway would be delivered to an adoptable standard with a footpath on its western side. To compensate for the loss of the turning head, 3no. parking spaces for existing residents would be incorporated into the future layout of the proposal.
22. I noted on my visit that No.18 Wheatsheaf Road, at the entrance to Chequers Close, has its flank wall and private amenity space enclosed. Beyond this property, both No.1 and No.3 Chequers Close are set back from the edge of the highway by modestly sized front gardens and private drives. On the opposite side of Chequers Close, front gardens are much narrower with the houses almost abutting the public footpath.
23. The appeal development would result in an increase in vehicle movements moving through Chequers Close. The appellant put forward uncontested evidence that vehicular movements would amount to 9 trips in the morning peak period and 7 trips in the evening peak.
24. This level of activity is considered by the Council to amount to unacceptable noise and disturbance, affecting the living conditions of nearby existing occupiers. When questioned at the Hearing, the Council confirmed it was only noise emanating from passing traffic that caused concern, particularly on the habitable rooms of those dwellings closest to the highway.
25. I acknowledge that residents in Chequers Close would experience a change in the ambient environment with the proposed development in place. However, this change must be taken in context with the existing situation. The area is already residential in character and private vehicles are a prevalent feature of this locality, parking and turning in the cul de sac at present. I did not observe any greater level of tranquillity in Chequers Close than in other parts of the settlement. The number of vehicle movements arising from the appeal development would be relatively small and, given the clarified concerns of the

Council above, would not be so deleterious to the local area as to disrupt enjoyment of local residents' properties.

26. On this basis, I find that the appeal development would not adversely impact upon the living conditions of neighbouring occupiers. The proposal would therefore comply with policy LP14 of the Local Plan, which seeks to ensure a high standard of amenity is provided for all users.

Effects on social infrastructure

27. The submitted legal agreement, dated 5 December 2023, seeks to secure contributions towards landscape management, open space, outdoor sports and bin provision. It also provides for 12 months of maintenance for the proposed green space within the appeal development and defines all the relevant terms for securing an appropriate mix and tenure of affordable dwellings. So-called blue pencil clauses are written into the legal agreement allowing me to strike out any obligation if I deemed it to fail the relevant statutory tests⁵.
28. It is common ground between the Council and the appellant that the legal agreement, as drafted, would mitigate all the associated impacts of the proposed development upon social infrastructure. I have no reason to consider otherwise, considering the document to be of sound draft and content, and the obligations to pass the relevant statutory tests.
29. My attention was drawn to the multi-party interests in the land forming the appeal site, with the appellant as the majority holder. The appellant was confident that those other interests would be extinguished or otherwise resolved, thus not requiring those individuals to be signatories to the legal agreement. Such a position was endorsed by the Council, with both parties suggesting a Grampian condition be attached to any permission preventing commencement of the development until those interests were no longer an impediment.
30. It was orally confirmed to me that all the interested individuals were listed in the application form in the Certificate B notification. Thus, there has been adequate opportunity at both application and appeal for any objections to be raised, of which I am not aware of any. I do however consider it prudent, were I allowing the appeal, to impose the Grampian condition to ensure the development would be carried out properly and legally.
31. For these reasons, I find that the impact on social infrastructure would be sufficiently mitigated, and the required infrastructure and social benefits would be delivered through the legal agreement. Therefore, the proposal would comply with policies LP3 and LP4 of the Local Plan.

Other Matters

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that my determination must be in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the development proposed is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.

⁵ Regulation 122 of the Community Infrastructure Levy Regulations 2010

33. Orally at the Hearing, it was confirmed as common ground between the appellant and the Council that a robust 5.4-year housing land supply could be demonstrated. Both of the main parties stated verbally at the Hearing that the tilted balance under paragraph 11 of the National Planning Policy Framework 2023 was not engaged.
34. The appellant has pointed to the objectives of boosting housing supply and the benefits of providing affordable dwellings. However, growth is to be managed in a plan-led system and the Local Plan, adopted in May 2019, is considered to be up-to-date by the main parties.
35. I acknowledge that objections have not been raised by the Council or its statutory consultees in respect of other technical planning matters. However, this would be expected of any proposal in any case and does not add to the justification for allowing a development in an inappropriate location. There would be potential for biodiversity net gain to be delivered as well as short-term economic benefits through construction, although these would not outweigh the harms of placing the development in this location. On the contrary, the proposal would lead to a loss of agricultural land that would conflict with policy LP10.
36. Whilst I have found that the proposal would be compliant with policies in respect of two of the main issues identified, these would not overcome the harm arising from the first main issue. I do not consider that planning conditions could be used effectively to reduce that harm. There, I do not consider that there are sufficient or significant reasons to make a decision otherwise than in accordance with the Development Plan.

Conclusion

37. For the reasons given above I conclude that the appeal should be dismissed.

David Wallis

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jay Mehta
Sophie Grice
Joe Bear
Gary Selvidge
Mark Tolner

FOR THE LOCAL PLANNING AUTHORITY:

Lewis Tomlinson
Lucy Pateman
Frank Mastrandrea
Vanessa Blane