

Appeal Decision

Site visit made on 21 November 2023

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th December 2023

Appeal Ref: APP/P0240/W/23/3322547

Land East of Janrose Barn, Dunstable Road, Tilsworth LU7 9PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Kevin Molyneaux against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/04949/PIP, dated 4 November 2021, was refused by notice dated 9 December 2022.
 - The development proposed is construction of 1no dwellinghouse.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second (technical details consent stage) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The Planning Practice Guidance states that the scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of the subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issues

4. In view of the above, the main issues are the effect of the location, land use and amount of development on:
 - the Chilterns Beechwoods Special Area of Conservation (SAC).
 - the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies; and
 - the character and appearance of the area.

Reasons

SAC

5. The national Planning Practice Guidance (PPG) gives the scope of the permission in principle stage as being limited to those matters set out in paragraph 3 above, with all other matters deferred to the second stage. However it also makes it clear that permission in principle cannot be granted

for habitats development, and indeed, under Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended), permission in principle must not be granted for development which is habitats development. Habitats development is defined in that same Article as development which is likely to have a significant effect on a European designated site either alone or in combination with other projects. The Habitats Regulations impose the duty on me, as the competent authority, to make that assessment; i.e. to consider whether the proposal would be likely to have a significant effect on the integrity of the SAC, either alone or in combination with other plans and projects.

6. The site would be within the 12.6km Zone of Influence of the SAC. The SAC is designated for three qualifying features; for beech forests, for dry grasslands and scrublands on chalk or limestone, and for the stag beetle. It is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations').
7. The adopted SAC Mitigation Strategy states that recreational pressures, such as trampling, is already churning and compacting the ground and damaging tree roots. The proposed development, has the potential to place additional pressure on the SAC from increased usage from its occupiers. Therefore the proposal, alone and in combination with other developments, would be likely to have significant effects on the integrity of the SAC. The development therefore constitutes habitats development.
8. In order to mitigate that harm, the Mitigation Strategy states that Natural England have advised that such effects can be mitigated through contributions towards Strategic Access Management and Monitoring (SAMM), which would aim to manage and avoid impacts and to better educate visitors; and Suitable Alternative Natural Greenspace (SANG), which would aim to provide attractive and publicly accessible space which would draw visitors away from the SAC. The Mitigation Strategy advises that such contributions can be secured by a unilateral undertaking.
9. The appellant has submitted a draft unilateral undertaking which would purport to secure financial contributions, to mitigate the effect on the SAC. Although this may indicate willingness to address this issue; as it is not completed it has no legal effect and I can give it no weight.
10. As such I cannot be satisfied that the additional recreational impacts on the integrity of the SAC by the future occupiers of the development could be mitigated. The proposal would therefore conflict with Central Bedfordshire Local Plan policy EE3 which aims to ensure important habitats are protected. The conclusion by the Secretary of State that the development is not EIA development is a different assessment.

Green Belt

11. Policy SP4 of the Central Bedfordshire Local Plan identifies a general presumption against development in the Green Belt and states that proposals within the Green Belt will be assessed against government guidance in the National Planning Policy Framework (the 'Framework'). Paragraph 149 of the Framework states that new buildings in the Green Belt are inappropriate, but lists a number of exceptions to this, of which one is limited infilling in villages.

12. Tilsworth is a small village mainly focussed along Dunstable Road. The proposed dwelling would be positioned on a site largely covered in ruderal vegetation. It is behind a row of modest houses with no substantial boundary treatment on the common boundary. To its northwest is an access track, leading to fields behind the site, and beyond that is Janrose Barn and 14 Dunstable Road both of which are set well back from the main road. To the southeast there is the rear garden of 8 Dickens Lane, and the buildings at Partridge Barn beyond that are visible above a mature boundary hedge. The field to the rear is separated from the appellant's landholding by a low post and wire fence.
13. A house on the appeal site would have a direct visual relationship with the row of houses fronting the road and the dwellings to the northwest due to its proximity to them and the lack of any intervening buildings or vegetation. Its relationship with its neighbours to the south east is weaker because of the boundary hedge, but nonetheless, the buildings to that side would assist in providing a sense of enclosure to the site. Altogether, the appeal site would face built form on three sides. Indeed, for that reason the appeal site is distinctly different from the field to the rear, and from the site edged in blue on the submitted Location Plan which faces development on only one side.
14. As such, it is considered that the site would be infill development. Moreover, by providing one unit it would comprise a limited amount of development, and as the buildings that surround it sit comfortably within the village, the site would also be within the village.
15. The development would therefore constitute one of the exceptions listed in paragraph 149 of the Framework. It is therefore not inappropriate development in the Green Belt and would accord with Local Plan policy SP4 as set out above.

Character and appearance

16. With dwellings to three sides of the site and a field to the other, the immediate surrounding area is semi rural in character. The undeveloped nature of the site itself makes a contribution to this, but it is limited because of its small scale in relation to the larger more open fields to the rear, and because of its enclosure on three sides by built form.
17. In addition, there are limited views of the site, and the countryside beyond, from the main road. Clearly, from the public footpath that crosses the site, the dwelling would be conspicuous. Nonetheless, it would be a large residential plot and, notwithstanding the indicative dwelling shown on the submitted plans, it would be possible for a modest dwelling on the site to retain considerable garden areas, an open and spacious character, and retain views through to the more distinctly rural landscape beyond.
18. Development on the site would not project beyond the built up envelope of Tilsworth and even the introduction of residential paraphernalia across the property would not represent a material extension to the spread of the village.
19. Overall the provision of one dwelling in this location would not result in unacceptable harm to the character and appearance of the area. It would comply with Local Plan policies HQ1, which aims to ensure that all developments respond positively to their context, and EE5 which requires

development to respect the character and distinctiveness of the local landscape.

Conclusion

20. The development would be likely to have significant effects on the integrity of the SAC. Although it would not be inappropriate in the Green Belt, and would not unacceptably harm the character and appearance of the area, the conflict with Policy EE3 outweighs the lack of harm in these regards. Accordingly, the proposal would also fail to accord with local plan policy SP2 which sets out that development that accords with the development plan will be approved.
21. As such, the proposal would conflict with the development plan as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. Therefore, for the reasons given above, the appeal is dismissed.

A Owen

INSPECTOR