



Appeal Decision

Hearing held on 1 November 2023

Site visit made on 31 October 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/P0240/W/23/3326233

Land at Stoke Road, Linslade LU7 2SR

- 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 Kevin Smith against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/03445/OUT, dated 20 September 2022, was refused by notice dated 30 January 2023.
 - The development proposed is for an artisan live/ work community including 20 residential units with commercial elements, associated communal facilities and parking.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Central Bedfordshire Council against the appellant Mr Kevin Smith at the Hearing. In response an application for an award of costs was made by Mr Kevin Smith against Central Bedfordshire Council. These applications are the subject of separate decision.

Preliminary Matters

3. The application is in outline with all matters reserved for future consideration. I have determined the appeal on this basis.
4. Illustrative plans accompany the application and I have paid regard to this information in so far as assessing the principle of development in land use terms.
5. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. My decision is made in the context of the revised Framework, and I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

6. The main issues are:
 - Whether the proposed development would be consistent with local and national policies relating to the location of new development;
 - Whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

- The effect of the development on the openness and the purposes of the Green Belt;
- The effect of the development upon the character and appearance of the area;
- The effect of the proposal upon the Chilterns Beechwood Special Area of Conservation (SAC);
- The effect upon biodiversity;
- The effect upon the safe and efficient operation of the local highway network;
- Flood risk;
- Whether or not the proposed development would make appropriate provision for affordable housing and self-build and custom house building (SBCH) plots;
- Whether the planning obligations are required to make the proposal acceptable in planning terms; and
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposal?

Reasons

Location of new development

7. Policy SP7 of the Central Bedfordshire Local Plan (2021) (LP) sets out the settlement hierarchy for directing new development in the area. Leighton Linslade is classed as a 'Major Service Centre' which accommodates a highly diverse range of services and facilities including public transport links. The policy sets out that outside settlement envelopes only particular types of development specifically permitted by other LP policies will be supported. The policy does not support the provision of live/work units in countryside locations.
8. The appeal site comprises a field located on the northern fringe of Leighton Linslade neighbouring residential development to the south. Despite the site's proximity to existing housing and the submissions made by the appellant the site is, nonetheless, located outside of the identified settlement envelope of Leighton Linslade defined within the LP. It is therefore located within open countryside.
9. In this regard the site is not an appropriate location for new housing contrary to LP Policy SP7 which, amongst other things, seeks to direct new development to appropriate locations.

Whether the proposal is inappropriate development in the Green Belt

10. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for a number of specified exceptions.

11. LP Policy SP4 relates to development in the Green Belt and states that development proposals will be assessed in accordance with national guidance.
12. Despite the appellant's assertions in the Statement of Common Ground (SoCG) he acknowledged, at the hearing, that the proposed development constitutes inappropriate development in the Green Belt.
13. In the context of the written evidence before me and the oral submissions the proposed development does not constitute one of the specified exceptions, outlined in the Framework, that is permissible in the Green Belt.
14. Accordingly, the proposed development constitutes inappropriate development as set out in Paragraph 152 of the Framework. It would also conflict with LP Policy SP4.

The effect on openness and the purposes of the Green Belt

15. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
16. I note that matters of scale, appearance and layout are reserved matters, and the scheme would be fleshed out at detailed design stage. I also acknowledge that the site is contained by Stoke Road, Linslade Woods, the railway line and existing built form. However, the proposed development would lead to an encroachment into the countryside and urban sprawl, contrary to two of the purposes of the Green Belt.
17. Furthermore, the introduction of up to twenty units, associated infrastructure including ancillary buildings and paraphernalia into an undeveloped site would result in a substantial impact on openness in both visual and spatial terms.
18. As such, I find that the proposal would undermine the purposes of the Green Belt and that there would be a loss of openness. This harm would be substantial contrary to the aims and objectives of the Framework.

Character and appearance

19. The appeal site comprises a parcel of land, used for the grazing of horses, that sits on the northern edge of Leighton Linslade located between residential development extending along Golden Riddy to the south and Linslade Wood and open countryside to the north.
20. Linslade Wood is a dense woodland that extends to the north west and provides a link from the urban form to the surrounding countryside and is a habitat for notable fauna and flora.
21. The site is largely screened from Stoke Road by vegetation, but glimpsed views exist from Linslade Wood, due to gaps in the boundary vegetation. The site lies along the Greensand Ridge, which is a narrow, elongated area and is considered a valued rural landscape characterised by an undulating landform formed of fields and pockets of woodland. The Greensand Ridge is designated as a Nature Improvement Area in order to support a better and robust natural environment.

22. Whilst the site neighbours established built form its undeveloped nature contributes to the verdant and rural character of the immediate area and acts as an important buffer between the built form and open countryside to the north.
23. Whilst the precise location of the access into the site is not known at this stage it would lead to the removal of vegetation along the road frontage. The proposed access would open up the site and the removal of a section of hedgerow would have an urbanising effect, changing the rural character of this part of the road.
24. The appellant submits that there are multiple ways in which the site could be developed with regard to the number of units and the layout and design including cutting houses into the site or moulding them into the landscape. Despite this, the scheme would result in an unacceptable encroachment into open countryside and would be very apparent and intrusive appearing as an incongruous form of development that would change the verdant appearance of the site into something more urban. Albeit localised, it would significantly erode its verdant and rural appearance and the contribution the site makes to the surrounding rural landscape.
25. The appellant suggests that the site is not countryside, but rather scrubland that has been in part influenced by him. Whilst I have paid regard to this, it has the impression of a natural landscape and irrespective of human intervention it positively contributes to the local rural landscape.
26. My attention has been directed to the comments of the previous Inspector regarding the proposals impact upon the character and appearance of the area¹. That appeal related to a materially different scheme compared to the proposals before me. The findings of the previous Inspector in respect of this matter do not lead me to reach a different conclusion. In any event every application and appeal must be considered on its own merits, which is what I have done.
27. As such, the proposed development would adversely affect the character and appearance of the area contrary to LP Policies EE1, EE2, EE3, EE5 and EE8 which, amongst other things, require new development to retain and enhance the character and distinctiveness of the local landscape, green infrastructure and the Greensand Ridge Nature Improvement Area.

Effect on the Chilterns Beechwood SAC

28. The site falls within the Zone of Influence of the Chilterns Beechwoods SAC which represents the most extensive area of native beech woodland in the country. The woodland is also home to associated notable species of flora and fauna.
29. In terms of the SAC the proposed development is of a type that is likely to result in recreational visits to the habitat potentially resulting in vegetation damage, contamination and increased risk of fire and harvesting. As such, it is necessary for me, as the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Act) to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SAC.

¹ APP/P0140/A/14/2214044

30. Detailed local guidance for the SAC is set out in the document 'Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest'. It sets out that mitigation measures in the form of Strategic Access Management and Monitoring and Suitable Alternative Natural Greenspace may be considered to mitigate the adverse impacts on the site's integrity secured through a planning obligation.
31. It is likely that the proposed development of up to 20 residential properties would contribute to further recreational pressures and disturbance. The proposal would either alone or in combination with other residential development in the area, likely have a significant effect on the SAC due to the increased recreational pressure that would be placed on it. Mitigation is therefore required to ensure that such pressure is avoided or limited to such a degree that would preserve the integrity of the SAC.
32. Given my statutory responsibilities under the Act and taking a precautionary approach, I find that the absence of any assessment of the likely impact and mitigation in relation to the proposal's impact would result in the scheme having a significant adverse effect on the integrity of the SAC.
33. As such the proposed development would be in conflict with LP Policy EE3 which, amongst other things, sets out that important habitats will be protected, maintained and enhanced including European designated sites.

Biodiversity

34. The Council has stated that the Linslade Wood is a County Wildlife Site (CWS) and is soon to be designated a Local Wildlife Site (LWS) and falls within the Greensand Ridge Nature Improvement Area. From the evidence before me there is the possible presence of protected species in the area.
35. The potential for great crested newts and other protected species on the site carries statutory duties and is a matter of considerable weight particularly given its immediate setting. I am not satisfied that this matter has been investigated to demonstrate that there would be no harm to protected species.
36. I note that the appellant contends that such an issue is a reserved matter. However, Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system, states 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 planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this case I see no reason to depart from the guidance set out in the Circular and the advice of the Council's Ecological Officer.
37. Furthermore, no Biodiversity Impact Assessment has been provided to demonstrate a net gain in biodiversity could be achieved. Therefore, insufficient information has been provided to demonstrate that the proposed development would not unduly affect biodiversity locally.
38. Accordingly, the proposal would be contrary to LP Policy EE3 which, amongst other things, sets out that important habitats will be protected, maintained and enhanced including CWS and LWS.

Safe and efficient operation of the highway network

39. The Council's concerns in relation to highway matters are twofold - firstly, whether safe access could be provided onto Stoke Road and secondly whether sufficient onsite parking could be provided to serve the proposed development.
40. I acknowledge that the site benefits from an existing field access which could form one potential access point. However, there is no certainty that an adequate access could be provided.
41. Stoke Road runs along the eastern boundary of the site and is subject to a 30mph speed limit. The Highway Authority undertook their own assessment which suggests that vehicles' speeds in both directions are in excess of the prevailing speed limit. They acknowledge that this is somewhat of a crude assessment, but it does suggest that this matter should be properly addressed.
42. In the absence of any information in respect of the existing highway conditions including a speed survey I cannot be satisfied that adequate visibility onto Stoke Road could be achieved. Therefore, the proposal would likely adversely affect highway safety.
43. Whilst access is a reserved matter, it is still incumbent upon the appellant to provide the necessary information to demonstrate that the scheme would not unacceptably affect highway safety or the efficient operation of the road network. This would go to the heart of assessing whether the principle of development can be established on the site.
44. Turning now to parking – the Council's Parking Standards for New Developments Supplementary Planning Document (2023) (SPD) sets out a requirement for between 95 and 116 onsite car parking spaces when taking into account the residential, employment and community spaces proposed. The indicative plans propose 34 spaces for residents and visitors. Therefore it is deficient of parking spaces.
45. I acknowledge that live/work units would likely generate fewer vehicular movements than dwellings where the occupiers drive to a separate workplace each day. I also note that the provision of communal vehicles and bicycles would to some extent reduce the need for a private vehicle. However, trips would still be generated by future occupants, clients, friends, family and delivery vehicles visiting the site. Additional trips would be generated also due to events at the multi-purpose space. As such and without any evidence to suggest otherwise the proposed development is likely to generate significant levels of traffic resulting in highway harm.
46. The development would not provide spaces in line with the adopted parking standards and based on the number of units proposed would likely result in indiscriminate and inconsiderate parking taking place on Stoke Road and surrounding roads. This would result in conditions that would be harmful to highway and pedestrian safety.
47. The lack of available onsite parking and the increased likelihood of vehicles seeking to park and manoeuvre along the public highway would have a significant adverse effect on the safe and efficient operation of the highway network.

48. The appellant has drawn my attention to the previous appeal decision on the site whereby the Inspector concluded that the proposals would not lead to highway safety concerns. However, this scheme was materially different relating to an over 55's residential development and in reaching this decision the Inspector was able to draw upon the conclusions of a Transport Statement. As such, I give this element of the appellant's case negligible weight in coming to my decision.
49. I conclude that the proposed development would adversely affect the safe and efficient operation of the local highway network contrary to LP Policies T2 and T3 and guidance contained within the SPD which, amongst other things, require new developments not to have a detrimental effect on highway safety, patterns of movement and provide appropriate access and have regard to car parking standards.

Flood risk

50. The Council's Sustainable Drainage Guidance (2015) sets out that outline applications on sites of 10 or more should include a concept Sustainable Urban Drainage System (SuDS) including basic design information to demonstrate that SuDS has been considered and incorporated into the scheme.
51. Whilst the proposed development is intended to be sustainable and eco-friendly no information has been provided in respect of flood risk or drainage. In the absence of such information, I cannot be satisfied that any constraints have been identified in respect of flood risk or that adequate drainage could be achieved.
52. As such, there is no certainty that the proposed development would not increase the risk of flooding. It would be contrary to LP Policies CC3 and CC5 which, amongst other things, require developments to prevent an increase in the risk of flooding and to incorporate SuDS to reduce surface water run off.

Affordable housing and SBCH plots

53. The submitted information indicates that the proposed development would be formed of live/ work units with 2-bedroom split level units, that could be adapted to provide a third bedroom.
54. For developments of 10 or more dwellings LP Policy H4 sets out a requirement for 30% of the houses to be affordable. Such sites are also expected to deliver 10% of the site capacity as serviced plots for SBCH which is set out in LP Policy H6.
55. The appellant, at the hearing, indicated that the proposal would not fall within a standard tenure due to the development concept and the management that would be involved in its ongoing operation. The appellant suggested that it would be an affordable scheme and could comprise build to rent or shared equity elements.
56. Whilst I have no reason to question the intention to provide an affordable scheme there is nothing substantive before me indicating how this would be achieved or a mechanism to secure such a development.
57. I acknowledge that when factoring in the appellant's development concept there could well be constraints in providing SBCH plots on the site. However, in

the absence of any substantive information or a definitive concept indicating tenure and management I can only give this part of the appellant's argument very limited weight.

58. As such, the proposed development would fail to provide adequate affordable housing provision and SBCH contrary to LP Policies H1, H4 and H6 which, amongst other things, require a mix of housing types and sizes to meet the needs of all sections of the local community including affordable housing and SBCH plots.

Planning obligations

59. The Council advise that the proposed development would trigger a number of planning obligations including affordable housing, SBCH plots and financial contributions towards education; leisure facilities and open space; green infrastructure; the NHS and fire hydrants.
60. I am satisfied that the contributions would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010), notwithstanding the appellant's submissions in the SoCG.
61. The proposed development is of a type that would impact on local services and facilities resulting from an increased resident population. The necessary planning obligations have not been provided and there is no mechanism by which to secure the necessary contributions. The contributions cannot be secured by condition.
62. At the hearing the appellant advised that the planning obligations sought by the Council could not be provided as it would make the scheme unviable. However, there is no evidence before me, in the form of a viability assessment or otherwise, to support this. Therefore, I give this element of the appellant's case very limited weight.
63. Consequently, in the absence of a completed planning obligation the proposal fails to mitigate its impact upon local infrastructure. It would be contrary to the requirements of LP Policies HQ2, HQ3 and HQ4 which, amongst other things, seek appropriate contributions towards new physical, social, environmental and community infrastructure to mitigate the impact of the proposals.

Other Matters

64. The Council advise that their supply of deliverable housing land stands at 5.24 years. The appellant, in the SoCG, disputes the Council's housing land supply position. However, based on the evidence before me and without any credible evidence to refute the Council's position there is a very strong indication that a deliverable five-year supply of housing land exists in the area.
65. I acknowledge that since the Covid pandemic working trends have changed. However, there is nothing substantive to indicate that the relevant policies in the LP do not have a degree of flexibility to take into account changing trends in the medium to long term.
66. Whilst the appellant asserts that there is a social and economic need for such a development this is not supported by any needs assessment or otherwise. In this regard I concur with the Council that there is a difference between a genuine need for a particular type of development and the desire to develop a

site. Again, I can only give very limited weight to this aspect of the appellant's case.

67. The appellant emphasised that the proposal would be a new and innovative concept that would "break new ground" or act as a blueprint for similar development in the future. I can only admire his intentions to deliver something that would sit outside of more traditional development. However, this would not outweigh the harm that I have identified in relation to the main issues.

Balancing Exercise

68. In line with the Framework the proposal would be inappropriate development in the Green Belt. It would also result in the loss of openness and undermine the purposes of the Green Belt. I attach substantial weight to this harm, as required by the Framework.
69. I have also found that the location of the site does not meet the requirements in local policy for new development. In addition, I have found harm with regard to character and appearance; biodiversity and the natural environment; highway safety; flood risk and the failure to provide financial contributions and adequate provision of affordable housing and SBCH plots.
70. The appellant contends that the proposal would be a unique, innovative development which is encouraged in the Framework which amount to very special circumstances.
71. I have given these matters careful consideration, however, these factors in this case would not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

72. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Kevin Smith

Mr Stephen Janes

FOR THE LOCAL PLANNING AUTHORITY:

Mr Philip Hughes on behalf of Central Bedfordshire Council

Mr Kevin Archard – Principal Highway Officer

Mr Peter Vosper – Principal Planning Officer

INTERESTED PARTIES:

Mr Tom Daley

Dr Clive Palmer – Leighton Buzzard Society

Councillor Victoria Harvey