



Appeal Decision

Site visit made on 29 December 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/P0240/W/23/3325285

Land adjacent to Carib, Harlington Road, Toddington, LU5 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K. McBride against the decision of Central Bedfordshire Council.
 - The application Ref CB/23/00658/FULL dated 23 February 2023, was refused by notice dated 30 May 2023.
 - The development proposed is described on the application form as "Residential Development comprising 2 x 3 bedroom chalet bungalows with associated access & landscaping. (Resubmission following withdrawal of Planning Application CB/22/04694/FULL)"
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Decision

1. The appeal is dismissed.

Procedural matters

2. The revised National Planning Policy Framework ('the Framework') was published on 19 December 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework documents published in 2021¹ and 2023². As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.
3. My determination of this appeal is against the policies of the Development Plan and in particular, those referred to in the Council's reasons for refusal. Although the appellant has referred to the Draft Toddington Neighbourhood Plan³, there is no evidence before me that it has been submitted for examination or supported at referendum. Given the uncertainties regarding the outcome of that process, I have only given it limited weight in my assessment.

Main issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area, with particular regard to the loss of a tree protected by a Tree Preservation Order;

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

² National Planning Policy Framework, Department for Levelling Up, Housing & Communities, 5 September 2023.

³ Toddington Neighbourhood Plan, 2018-2035, Draft January 2018

- the location of development, with particular regard to;- (a) whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt; and (b) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Appeal site context

5. The appeal site is located in the Green Belt on the northern side of Harlington Road (B5120) in the village of Toddington. It slopes down in a northerly direction and consists of overgrown grass/scrubland with trees and hedging to the periphery.
6. Harlington Road is primarily characterised by single file detached, semi-detached and terraced dwellings of varying architectural styles and maturity fronting onto both sides of the vehicular highway, interspersed by the Toddington cemetery on its southern flank and an open gap of two paddock-like enclosures to its northern side, one of which forms the appeal site ('the open gap').

The effect of the development on the character and appearance of the area, with particular regard to the loss of a tree protected by a Tree Preservation Order

7. The Local Highway Authority has raised no objections to the scheme subject to the removal of a hedgerow and Cherry tree that fall inside the western visibility splay, the latter of which is protected by a Group Tree Preservation order⁴.
8. Whilst I recognise that the appellant never proposed the removal of the Cherry tree and has argued that this is unnecessary, it is my view that its retention would impede the western visibility splay to an unacceptable degree and harm highway safety on this fast and busy road.
9. However, given the small and diminutive appearance of the Cherry tree and it being set against the backdrop of a much larger and more impressive Red Oak tree, I am satisfied that its removal would not be harmful to the character and appearance of the area and could be replaced elsewhere on the appeal site. The appellant has confirmed that they would be agreeable to the removal of the tree in question.
10. In light of the above, I am satisfied that the scheme would not be harmful to the character and appearance of the area. The proposal would therefore accord with Policies HQ1 and EE4 of the Local Plan⁵, which seek, amongst other things, to ensure that new development responds positively to its context and that the removal of trees must be justified with local assets replaced.

⁴ Tree Preservation Order No 5/2021 dated 5 October 2021 and No 6/2021 dated 9 November 2021.

⁵ Central Bedfordshire Council Local Plan 2015-2035, adopted July 2021.

Whether the proposal would be inappropriate development in the Green Belt

11. Policy SP4 of the Local Plan states that development proposals within the Green Belt will be assessed in accordance with government guidance contained in the Framework and Planning Practice Guidance⁶. Paragraph 154 of the Framework states that a local authority should regard the construction of new buildings as inappropriate in the Green Belt, aside from a number of exceptions, the most relevant of which in this case is limited infilling in villages.
12. Harlington Road was developed with housing much later than the central core of Toddington and represents an example of linear urban sprawl away from the central built-up area of the village. I recognise that the appeal site and adjacent row of housing to the east falls just outside the settlement boundary identified on the Proposals Map, but having appraised the matter on the ground, it is my view that this area nonetheless has a close functional, spatial and visual relationship with Toddington and constitutes part of the village. This conclusion, which is not disputed by the parties, is supported by case law⁷ which has confirmed that the boundary of a village defined in a local plan is not determinative, particularly in circumstances where the defined boundary does not accord with the Inspector's assessment of the extent of the village on the ground.
13. The matter in dispute centres on whether the scheme would constitute limited infill development. The accompanying text to Policy SP4⁸ defines infill development as small-scale development in a small gap in an otherwise built up frontage, utilising a plot in a manner which should continue to complement the surrounding pattern and grain of development. Although this is not policy, it clarifies how the Council applies Policy SP4 and requires a planning judgement to be made having regard to size, location and relationship to existing built form.
14. Given the modest size of Toddington and the general character of the appeal site's edge-of-settlement village location where built-form meets open countryside, it is my view that the existing open gap is of a substantial size. By reason of the appeal site only forming a limited part of this, there would remain a significant distance between the development and the nearest building to the west. As a consequence, even though I am satisfied that the scheme is small in scale and would replicate the existing grain of housing to the east, it is my view that the proposal would not fill a gap in an otherwise built up frontage and not therefore constitute infill development.
15. The appellant has drawn my attention to a previous appeal decision on the site where the Inspector found that a single dwelling would 'consolidate' the existing ribbon development beyond the main village, and that this meant that the appeal site amounted to an infill plot⁹. However, even if the legal definition of 'consolidate' is, as described by the appellant, to join together, unite, make firm, secure or to form into a compact mass, other definitions, such as that contained within the online Cambridge Dictionary define this as 'to become, or

⁶ <https://www.gov.uk/government/collections/planning-practice-guidance>

⁷ *Wood v Secretary of State for Communities and Local Government, Gravesham Borough Council* [2014] EWHC 683 (Admin) and *Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council* [2015] EWCA Civ 195.

⁸ Paragraph 8.6.3.

⁹ SB/78/00454

cause something to become, stronger and more certain'. As a consequence, I do not agree that the previous Inspector's reference to 'consolidate' implies that they considered the site to be an infill plot and have therefore proceeded to assess the proposal on the basis of my own on-the-ground assessment.

16. My attention has also been drawn by the appellant to a number of other decisions by the Council and Inspectors at appeal. However, I did not find any of these to be comparable in terms of size and character to the open gap in this case or its relationship to the surrounding built form. I have therefore assessed the proposal on its own merits having regard to all of the evidence which is now before me.
17. In light of the above, I conclude that the scheme would not accord with the exception outlined at Paragraph 154 of the Framework for limited infilling in villages and would therefore constitute inappropriate development in the Green Belt.
18. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Whilst the scheme would be clearly visible from Harlington Road and have a greater impact upon the openness of the area than retaining the site in its present undeveloped form, its visual impact would be reduced as a result of its position adjacent to existing development to the east, the dwellings sitting below the road level as a result of the site gradient and the large amount of mature trees & hedging to its boundaries providing a degree of visual separation from the wider countryside. As a consequence, I conclude that the scheme would only cause limited harm to; (1) the openness of the Green Belt; and (2) the purpose of including the land within it, with specific regard to the safeguarding of the countryside from encroachment as outlined in Paragraph 143 of the Framework.

Other considerations

19. Paragraph 152 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 153 states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause limited harm to the openness of the Green Belt. In accordance with Paragraph 153 of the Framework, I have given substantial weight to this harm in my assessment.
21. I recognise that the scheme's location would enable appropriate opportunities for sustainable transport modes such as walking, cycling & public transport and enhance the vitality of Toddington as a rural community in accordance with Paragraphs 83 and 114 of the Framework. I also recognise that it would constitute a suitable site within an existing settlement for a home and have therefore given great weight to the benefits of using it in accordance with Paragraph 70 of the Framework.

22. The scheme would result in benefits from; (a) the appellant's willingness to restrict the dwellings to individuals over 50 years of age to meet a local housing need for older people as identified in the Draft Toddington Neighbourhood Plan and Central Bedfordshire assessment of housing needs of older people (2017); (b) the provision of a new footway across the site frontage and dropped kerbs on both sides of the highway to enable safer pedestrian access to an existing bus stop; (c) a contribution towards the Council's 5-year housing land supply housing of 2 energy efficient dwellings in a sustainable location with good access to local bus services; (d) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; (e) future Council Tax contributions; and (f) local employment during construction.
23. However, given that only two dwellings are proposed, I consider these benefits, both individually and collectively, to be of limited value and not sufficient to clearly outweigh the development's limited harm to the openness of the Green Belt, which I have given substantial weight to in my assessment.
24. In view of the above, I find that there are no very special circumstances that clearly outweigh the scheme's harm to the Green Belt by reason of inappropriateness, and the limited harm to its openness. As a consequence, I conclude that the development would conflict with Policy SP4 of the Local Plan, and also find that it would not accord with Paragraphs 152, 153, 154 and 155 of the Framework.
25. The appellant states that the Council cannot demonstrate an up-to-date 5-year housing land supply, which has not been disputed by the Council. However, because I have concluded that the scheme conflicts with the Framework's Green Belt policies, the presumption in favour of sustainable development is not engaged in accordance with Paragraph 11(d)(i).

Conclusion

26. Although I have concluded that there is no harm in respect of the main issue relating to character and appearance, I am nonetheless satisfied that the harm identified in respect of the main issue relating to the Green Belt is sufficient to still justify dismissal of the appeal. As a consequence, I conclude that the proposal conflicts with the development plan when taken as a whole and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.
27. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

Robert Fallon

INSPECTOR