



Appeal Decision

Site visit made on 6 February 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/P0240/W/23/3332751

**Cherry Tree House, Greenfield Road, Pulloxhill, Central Bedfordshire
MK45 5EY**

- 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 Jeremy Tilston of JRT Architectural Design Limited against the decision of Central Bedfordshire Council.
 - The application Ref CB/23/01326/OUT, dated 17 April 2023, was refused by notice dated 15 August 2023.
 - The development proposed is the erection of nine dwellings with new access road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 19 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues of this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.
3. The appeal scheme relates to an outline proposal, with access and layout considered and appearance, landscaping, and scale for future consideration. I have considered the appeal accordingly. Plans have been submitted as part of the appeal which indicate how the proposed access and nine plots could be accommodated on the site. I have taken this plan into account insofar as they relate to access and layout.
4. The Council did not raise protected species, including great crested newts as an issue within their reasons for refusal. However, paragraph 99 of Circular 06/2005¹ 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 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 any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The appeal site is within 500m of a pond which could support great crested newts and the parties have been given the opportunity to comment. Therefore, I have considered it as a main issue.

¹ Circular 06/2005 Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.

Main Issues

5. The main issues are the effect of the proposal on:

- the effect of the proposal on the character and appearance of the area;
- whether the appeal site would be a suitable location for the proposed development, having regard to local policy; and
- the effect of the proposal on great crested newts.

Reasons

Character and appearance

6. The area forms part of the rural approach to Greenfield, with this portion of Greenfield Road characterised by low-density, linear dwellings set within the northeast of spacious plots. The appeal site comprises a substantial area of land associated with Cherry Tree House, enclosed by a mixture of mature hedges and trees as well as high level boundary walls/fences. Despite its association with Cherry Tree House and its proximity to Greenfield, the appeal site most closely relates to the surrounding open countryside and contributes significantly to the open, rural setting of the village.
7. The proposed dwellings would have a frontage onto the access road which would help to create a sense of place and character. While the proposal would not be considered tandem development, it would introduce nine dwellings in a backland position beyond the existing residential development depth and would fail to replicate the surrounding low-density, linear pattern of development.
8. Whilst I note that the mature planting on the western boundary would limit public views, the subdivision of the appeal site and its development with nine dwellings and associated features, including large areas of hardstanding would urbanise the plot and create a locally significant amount of built development. When viewed from the highway and surrounding properties, it would consolidate the built form on approach to the village and would significantly diminish the contribution that the site makes to the villages rural setting.
9. Therefore, I conclude that the proposal would harm the character and appearance of the area. It would conflict with Policies HQ1, HQ10 and EE5 of the Central Bedfordshire Local Plan 2015-2035 (July 2021) (CBLP) which collectively require development to respond positively to their context, considering density, existing pattern and grain of development and landscape character. There would also be conflict with the Framework where it requires development to be sympathetic to local character, including surrounding landscape setting.

Location

10. CBLP Policy SP7 outlines how windfall development will be managed within the district, primarily focusing development within defined settlement envelopes. However, development outside of settlement envelopes is supported under several circumstances, including the redevelopment of previously developed land (PDL) where there will be no detrimental impact on the built and natural environment as well as settlement character.

11. Although in close proximity to the edge of the settlement envelope, the appeal site is located outside of Greenfield. Whilst the Council asserts that only part of the appeal site comprises PDL, on inspection, the site appears as part of the domestic garden of Cherry Tree House with the house facing the land, a mown lawn, and several domestic outbuildings. As the dwelling and garden are not located within a built-up area, I conclude that the appeal site comprises PDL as defined by the Framework.
12. Whilst the Framework encourages the use of PDL, the Council are correct in that it should not be assumed that the whole of the appeal site should be developed as a result of its status. Further, as highlighted above, the proposal would harm the character and appearance of the area.
13. As such, I conclude that the appeal site would not be a suitable location for the proposed development. It would conflict with Policy SP7 of the CBLP as summarised above.

Great crested newts

14. The appeal site comprises an area of grass, predominantly surrounded by mature hedges. There is a small watercourse that extends along the western boundary and a pond is located within 500m of the appeal site.
15. The Preliminary Ecological Appraisal indicates that the pond is capable of supporting great crested newts (GCN) and that there is suitable connectivity. The appraisal suggests that the site has a low potential to support amphibians but requires further surveys to determine the presence of GCN and any potential effects and mitigation required or that the appellant joins the District Level Licensing Scheme. In the absence of the required surveys or the GCN District Level Licensing Impact Assessment and Conservation Payment Certificate, I am unable to determine the full effect of the appeal proposal on GCN.
16. Whilst the appellant is willing to join the District Level Licensing Scheme and asserts that this could be secured via condition, I cannot be satisfied that any harm would be suitably mitigated. The Circular makes clear that it is essential that the presence or otherwise of protected species, and the effect on them by a proposal, is established before planning permission is granted. This is to ensure that their presence is fully taken into account. It is not therefore appropriate for such a matter to be dealt with by condition. In the absence of this detail, I have insufficient information to assess the extent of the impact on GCN and whether the need for or public benefits of the proposed development would outweigh the potential harm.
17. Consequently, due to lack of information I am unable to determine the effect of the proposal on GCN and cannot determine that it would not lead to significant harm. As such, I must take a precautionary approach and find the proposal would conflict with the Framework which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Matters

18. The proposal would provide nine additional houses on previously developed land in a relatively accessible location. Whilst the Framework seeks to boost the supply of housing, the evidence indicates that the Council can provide for the required amount of housing in the area. Short term employment would be provided during the construction and in the long term the future occupiers would benefit the local economy and community by helping to sustain the vitality and viability of the existing settlement. That said, the social and economic benefits of nine additional dwellings would be limited and there is no indication that local services and facilities are in danger of closing. The installation of enhanced insulation and heating systems is commendable; however, I have no details before me and as such can attach only limited weight to this matter. Overall, these matters do not outweigh the harm I have identified above.

Conclusion

19. For the reasons given above, I conclude that the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework that would outweigh that conflict. Therefore, the appeal is dismissed.

K Allen

INSPECTOR