



Appeal Decision

Site visit made on 20 February 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20.03.2024

Appeal Ref: APP/P0240/W/23/3329451

Land to the rear of 48 Church Road, Studham LU6 2QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by English Rural against the decision of Central Bedfordshire Council.
 - The application Ref CB/23/00576/FULL, dated 15 February 2023, was refused by notice dated 5 July 2023.
 - The development proposed is the erection of three affordable dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the appellant described the appeal site as cleared unused land, I observed that the appeal site had been converted into a car storage facility surrounded by a metal security fence. The parties have confirmed that no formal planning permission has been obtained for this use and consequently I have determined the appeal on that basis.
3. Originally the Council refused the application on the basis that without appropriate mitigation the proposal would have an adverse effect on the integrity of Chilterns Beechwoods Special Area of Conservation (SAC). However, during the appeal process the appellant has submitted an executed unilateral undertaking which the Council accept secures appropriate mitigation and consequently this reason for refusal is no longer pursued.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate in the Green Belt having regard to the National Planning Policy Framework and any other relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriate development

5. The National Planning Policy Framework (Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy SP4 of the Central Bedfordshire Local Plan 2015-2035, July 2021 (CBLP) is consistent with the Framework as it sets out that there is a general presumption against inappropriate development and that development proposals within the Green Belt will be assessed in accordance with Government guidance.
6. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154.
7. The proposal would involve the erection of three affordable dwellings. As a result, a potentially relevant exception includes paragraph 154(f), limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).
8. Policy H5 of the CBLP sets out the Council's rural exception sites policy but makes it clear that this covers sites outside of the Green Belt. The appellant considers that the fact that this does not include the Green Belt is a drafting error. However, it is not possible to definitively conclude one way or the other whether it is a drafting error. As a result, I have determined this appeal based on Policy H5 as drafted as part of the adopted development plan.
9. In reaching that view I have taken account of paragraph 11 of the Framework which deals with the presumption in favour of sustainable development, but there is nothing in that paragraph which alters my view that I should determine the appeal on the basis of the fact that Policy H5 of CBLP does not cover sites within the Green Belt.
10. Like the previous Inspector who determined an appeal at Lower Woodside¹, I accept that there is broad support in the CBLP for rural exception sites within the Green Belt, particularly the explanatory text for Policy SP4 which sets out that the Council will consider favourably the provision of affordable housing on rural exception sites in the Green Belt. I have also taken account of the Framework which highlights that support should be given for opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs. However, in the context of the Green Belt, there is no express provision within any development plan policy within the terms of paragraph 154(f) of the Framework.
11. I have also taken account of another appeal decision at Sarratt.² However, the circumstances of that other case are materially different, as in that case the appeal site is located in an entirely different area with a different development plan that is significantly older than the CBLP. Further, and importantly, the Inspector in that case was satisfied that the proposal would be for limited affordable housing for local community needs under policies set out in the

¹ APP/P0240/W/20/3262147

² APP/P1940/W/22/3300083

development plan and therefore met the exception included in the Framework. He noted that the proposal was inconsistent with a development plan policy which did not list the same exceptions to inappropriate development as set out in the more up to date version of the Framework. Therefore, the Inspector afforded the out-of-date development plan policy very limited weight.

12. That is a very different set of circumstance to the situation before me where there is not the same conflict between the development plan and the Framework in terms of exceptions. Rather, as outlined above, Policy H5 of the CBLP which deals with rural exception sites does not include sites within the Green Belt and therefore does not engage the relevant exception in the Framework. As a result, given the material differences between that case and the appeal before me I give the other appeal decision limited weight in the determination of the appeal.
13. For the reasons set out above, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policy SP4 of the CBLP. Moreover, for the reasons set out above it would not accord with Policy H5 as that policy does not include sites within the Green Belt. The proposal would also be at odds with the relevant Green Belt policies of the Framework as set out above.

Openness

14. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Spatially, the overall increase in floor space and volume would be significant. The footprint of the proposed dwellings would introduce a building mass on to the appeal site that was previously cleared unused land. Moreover, even if I were taking account of the current use of the site as a car storage facility, the proposed development would materially diminish openness in comparison to that use and would consequently harmfully reduce the openness of the site.
15. Visually, the proposed dwelling would have a significant presence in public views from Church Mead. As a result, there would be considerable harm to openness to which I give substantial weight.

Other Considerations

16. The appellants highlight that the proposed development would result in the provision of three affordable dwellings which they consider would outweigh the very modest level of harm associated with the proposed development. As outlined above, I accept that the explanatory text of the CBLP provides broad support for affordable housing on rural exception sites within the Green Belt. However, that is not translated into Policy H5, which does not include sites within the Green Belt, and I have already set out my reasoning in relation to that matter. It follows that the fact that proposal would meet the requirements of Policy H5 of the CBLP has limited weight in the determination of the appeal.
17. Moreover, I do not agree that the harm would be very modest. Inappropriate development is by definition harmful to the Green Belt. I have also found that the proposal would cause considerable harm to openness. As a result, I have afforded substantial weight to the harm the proposal would have on the Green Belt.

18. That said, I agree that an important benefit of the proposal would be the provision of three affordable houses within a village location that would be secured through an executed unilateral undertaking. I note that the Parish Council now support the proposal as it would provide much needed affordable housing for local residents or people who work in the village.
19. I have also taken account of the fact that the Council's housing strategy and implementation officer is supportive as the proposal would provide essential affordable housing that is required in the area as evidenced by the supporting housing needs assessment and would be let in line with the Council's Local Lettings Policy. I note that in reaching that view they have set out the requirements of Policy H5 of the CBLP, which deals with sites outside of the Green Belt. Nevertheless, given the clear need for such housing and the support for such affordable housing both within the explanatory text of Policy SP4 of the CBLP and the Framework I afford the proposed provision of affordable housing in this location significant weight in the determination of the appeal. I have given greater weight to the provision of affordable housing than the Inspector who determined the appeal at Lower Woodside, referenced above, as unlike that Inspector I do find that this proposal would meet a current need in this particular location.
20. I also accept that the proposal would deliver some economic and societal objectives through the delivery of land to support appropriate growth and help to deliver a balanced community which attracts modest weight. The short-term economic benefits delivered during the construction phase of development would also attract a little weight.
21. As outlined above, it is common ground that the appellant has appropriately mitigated the effect of the proposal on the SAC. In the event that I had been minded to allow the appeal, it would have been necessary for me to undertake an appropriate assessment as the competent authority. However, given my overall conclusion that is not necessary. However, even if I had ultimately found that any significant adverse effects on the SAC could be fully mitigated, that finding would have had neutral weight in the determination of the appeal.

Green Belt Balance

22. Notwithstanding that I have afforded some considerations weight as outlined above, including significant weight to the fact that the proposal would result in the provision of affordable housing in a suitable location, overall the other considerations do not clearly outweigh the substantial harm the proposal causes to the Green Belt by virtue of its inappropriateness and its impact on openness. Consequently, the very special circumstances necessary to justify the proposed development do not exist.

Conclusion

23. In summary, the proposal conflicts with the development plan and the Framework and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given the appeal is dismissed.

S Rawle

INSPECTOR