

Appeal Decision

Site visit made on 19 July 2024

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/K0235/W/24/3340818

3 Great North Road, Bedford MK44 3BD.

- 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 Clancy against the decision of Bedford Borough Council.
- The application Ref is 22/01618/S73A.
- The development proposed is described as “change of use from brownfield to car sales.”

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Prior to this appeal, there were two applications and subsequent appeals¹ for dwellings on the site. Both appeals were dismissed.
3. The first four main issues in this appeal are the effect of the development on:
 - a) the character and appearance of the area, with particular reference to the historic Land Settlement Association smallholding;
 - b) the living conditions of neighbouring occupiers, with particular regard to noise and disturbance and use of the unadopted road;
 - c) highway safety; and
 - d) landscape and biodiversity.

The final two main issues are whether the development:

- e) serves local needs and supports local facilities; and
- f) is in a suitable location.

Reasons

a) Character and appearance

4. Running parallel to the eastern side of the A1, the Great North Road is an unadopted road. The site, the dwelling at 3 Great North Road, and the other properties at 1 -9 Great North Road form part of the historic Land Settlement Association (LSA) smallholding known as Great North Road. This area forms part of the wider LSA at Wyboston, Chawston and Colesden created in the 1930s to promote agricultural and horticultural activity in a time of high unemployment. Glasshouses and agricultural buildings can be seen east of

¹ APP/K0235/W/17/3173256, decision issued 18 August 2017; and APP/K0235/W/18/3197337, decision issued 10 September 2018.

Great North Road, separated from the modest detached houses and their large gardens by the unadopted road. Each LSA plot would have had a house and garden with a large area of land to the east for agriculture and horticulture.

5. The development is for the change of use of land to car sales. This has already taken place and includes a mobile office, hardstanding for the stationing of vehicles, fencing, and an access off Great North Road. The development is surrounded by high close boarded fencing and a gate to three sides, with trees providing screening and separation from the adjoining land to the north. To the east beyond a post and rail fence, a pond for the breeding of fish was created after mineral extraction (Ref: 15/00678/FULWM). The appellant notes that the parking area and open storage area previously on the site were temporary areas for use during excavation. To the east lies the Begwary Brook with the River Great Ouse beyond the smaller watercourse.
6. The presence of the fish stock pond and some nearby commercial uses along Great North Road serve to diminish the LSA's spatial pattern. However, the site's use and layout, with car parking, significant boundary fencing and a separate access, formalises the sub-division of the historic LSA smallholding and thereby further diminishes the distinctive spatial pattern, layout, scale and purpose of the LSA plot at 3 Great North Road.
7. In conclusion, the development has a harmful effect on the character and appearance of the area, with particular reference to the historic Land Settlement Association smallholding. It is contrary to Policies 28S, 29, 30, and 75 of the Bedford Borough Local Plan 2030 (BBLP) and Policy AD44 of the Allocations and Designations Local Plan (July 2013) (ADLP).
8. BBLP Policy 28S and 29 expect development to contribute to good place-making and be of the highest quality of design, while BBLP Policy 30 outlines the importance of design in context. Meanwhile, BBLP Policy 75 criterion ix requires development to not have a significant and demonstrable harm to the area's established character. ADLP Policy AD44 criterion i only permits development within the Former Land Settlement Association Area (FLSAA) where the distinctive spatial pattern, layout and scale of plots is maintained. I consider that the development would not accord with the requirements for designing high quality buildings and places set out in Chapter 12 of the National Planning Policy Framework (the Framework). While BBLP Policies 35S and 37 were included in the reason for refusal on character and appearance, I have dealt with these policies in main issue d) on landscape and biodiversity.

b) Living conditions

9. ADLP Policy AD44 criterion iii deals with the need to protect residential amenity from inappropriate disturbance within the FLSAA. BBLP Policy 32 covers the impact of development, including disturbance and pollution impacts, and refers to noise, vibration, smell, harmful emissions, impact on water quality, light glare or other disturbance or pollution which is likely to be generated. BBLP Policy 47S on pollution, disturbance and contaminated land seeks to address similar issues, while BBLP Policy 75 criterion ix refers to proposals not having a significant and demonstrable harm to local amenities and adjoining land uses.
10. The Council's concerns about the development are centred on increased noise and disturbance to neighbouring occupiers as a result of increased traffic movements to and from the site and noise emanating from the use. The

Council's Environmental Health Officer has been involved in discussions about the valeting of cars on site, with associated use of pressure washers and vacuum cleaners. In the absence of evidence on noise levels, it cannot be concluded that traffic movements and the frequency and volume of such valeting would not cause disturbance.

11. Furthermore, the appellant has failed to provide the development's hours of operation. Given that the development appears to make a more intensive use of the site than its previous use associated with the dwelling at 3 Great North Road, it is not unreasonable for the Council to assume that there is an increased risk of disturbance to neighbouring occupiers from a greater number of transport movements along the unadopted road, with the associated risk of further damage to the poor road surface.
12. Although one local resident has referred to car sales being controlled by appointment and limited to a few a day, and there being a greater number of vehicle movements and associated noise from other businesses along the unadopted road, no site-specific data on this matter has been supplied.
13. I conclude it has not been demonstrated that the development has an acceptable effect on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance and use of the unadopted road. It therefore conflicts with BBLP Policies 32, 47S and 75 and ADLP Policy AD44.

c) Highway safety

14. Located immediately south of Wyboston petrol station, vehicular access to Great North Road is only possible from the A1's southbound dual carriageway, though access is not straightforward as it involves crossing the petrol station's exit sliproad and its cross-hatching. This risks conflict with vehicles exiting the petrol station onto the A1. The safest access is via the petrol station forecourt, using the petrol station's exit sliproad to turn left onto Great North Road.
15. The unadopted Great North Road is single track, narrow, and unmade for much of its length. The road is some 2.6 metres wide close to the site. Consistent hard surfacing is only present for a short section where the unadopted road abuts the A1 at its northern end and around the first bend past No 1. The road's condition worsens considerably towards the southern end of Great North Road and is very narrow and heavily potholed up to the junction with the A1.
16. The development is for car sales, which normally generate additional vehicle movements by reason of cars for sale being brought to or driven away from the site or visitors to the site looking at cars for purchase. No data has been provided by the appellant on vehicle movements to and from the site.
17. Given the narrow, unmade, and poor state of Great North Road between the site and the northern access to the A1, I consider that the road's condition and width renders it generally unsuitable for additional two-way traffic as it depends on this further traffic using driveways or forecourts as passing places along the road. Furthermore, the Council considers the road is not wide enough to allow for access by a fire engine of 8.5 metres in length and no tracking data has been provided by the appellant to refute this. With an unknown level of transport movements arising from the development, it is not possible to confirm that the development does not have an adverse impact on highway safety and emergency access.

18. While oil tankers, refuse lorries, and emergency vehicles have accessed Great North Road, it is not possible to know what effect the development has on highway safety in the absence of data on the frequency and type of traffic movements. Although National Highways has not objected, concern has been raised that the northern access is due to be closed as a result of works to upgrade the road network between the A1 Black Cat roundabout and Caxton Gibbet on the A428. This would require all vehicles using Great North Road to use the southern access, passing residential properties.
19. The Council has confirmed that the Black Cat to Caxton Gibbet improvements include the northern access being closed and the southern access being improved for two-way traffic for access to Great North Road. However, these works have not yet taken place and in the absence of data on the intensity of use of the development, it does not resolve my concerns. The appellant has referred to the Council's Parking Standards for Sustainable Communities Supplementary Planning Document (2014), but I have not been provided with the document or any specific advice on its relevance.
20. Concluding on this main issue, it has not been demonstrated that the development has an acceptable effect on highway safety. Accordingly, it is not compliant with BBLP Policies 31 and 75 which deal with highway safety. It also conflicts with ADLP Policy AD44 which requires development to not result in unacceptable levels of traffic generation within the FLSAA. Given the lack of evidence, I cannot confirm that the development does not have an unacceptable impact upon highway safety or that the residual cumulative impacts on the road network would not be severe, in keeping with paragraph 115 of the Framework.

d) Landscape and biodiversity

21. The site is now largely covered by hardstanding. During my site visit, the landscaping area shown on plan OAK-154 consisted of self-set vegetation. The site lies within the designated Lower Great Ouse River Valley (LGORV) green infrastructure opportunity zone. In this zone, it is a priority to create a green corridor for biodiversity around the A1, where appropriate. Furthermore, it is a requirement for all development proposals to demonstrate a net increase in biodiversity on site, proportionate to the development proposal. No provision for green infrastructure or biodiversity has been made within the development or towards the creation of a green corridor for biodiversity within the LGORV opportunity zone.
22. Additionally, the most up-to-date mapping identifies the site as being within an amber risk zone for Great Crested Newts, a protected species. As the appellant has not submitted a preliminary ecological appraisal, it is not possible for me as the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended) to determine whether the proposal has a detrimental impact on Great Crested Newts or any other protected species that might be present and whether any impacts can be satisfactorily mitigated.
23. I conclude that it has not been demonstrated that the development has an acceptable effect on landscape and biodiversity. Consequently, it is contrary to BBLP Policies 35S, 37, 42S, 43 and 75 and ADLP Policy AD24. BBLP Policy 35S expects a net gain in green infrastructure and BBLP Policy 37 seeks to protect and enhance landscape character. BBLP Policies 42S and 75, together, seek to protect biodiversity and prevent adverse impacts on sites, species and habitats

of principal importance, while BBLP Policy 43 seeks enhancement and net increase in biodiversity through development. ADLP Policy AD24 requires that, where appropriate, development will deliver or contribute to the protection, enhancement and/or creation of green infrastructure for each opportunity zone.

e) Local need

24. The site lies outside the Urban Boundary of Bedford and Kempston and any defined Settlement Policy Area (SPA). It is therefore within the open countryside. BBLP Policy 7S is a relevant criteria-based policy with two main parts. Criteria i – v address development outside defined SPA and the built form of Small Settlements, and confirm that development will be permitted if it is appropriate in the countryside in accordance with policies on reuse of rural buildings in the countryside (i); the replacement and extension of dwellings in the countryside (ii); affordable housing to meet local needs in the rural area (iii); accommodation for rural workers (iv); and Neighbourhood Development Plans made by Bedford Borough Council (v). None of these criteria are applicable to the development.
25. The second part of BBLP Policy 7S confirms that exceptionally development proposals will be supported on sites that are well-related to a defined Settlement Policy Area, Small Settlements or the built form of other settlements where it can be demonstrated that criteria vi – xiii can be met.
26. Criteria vi – viii of BBLP Policy 7S require the development to respond to an identified community need; have identifiable community support and be made or supported by the parish council; and be of a scale appropriate to serve local needs or to support local facilities. The appellant has offered no evidence to address these criteria and the Parish Council has objected to the development. As such, criteria vi – viii have not been met. Furthermore, criterion x deals with long term viability and access by sustainable transport for community buildings and assets. As it has not been evidenced that this is a community asset or building and no information has been provided on access by sustainable transport or viability, the development fails criterion x.
27. BBLP Policy 7S criterion ix states that development should contribute positively to the settlement's character and be appropriate to its structure, form, character and size, while criterion xi outlines the need to recognise the countryside's intrinsic character and beauty. It will be seen from main issue a) that the development also contravenes these two criteria.
28. The final criteria xii and xiii relate to other impacts on the use and enjoyment of the countryside by others; and not giving rise to other impacts that would have a significant adverse effect on the environment, biodiversity or designated sites. Given the dearth of evidence on living conditions, highway safety, landscape and biodiversity, the development fails to satisfy these criteria.
29. The appellant has argued that although the development fails to meet BBLP Policy 7S, the policy is an overarching one and despite not meeting the policy tests, more weight should be afforded to BBLP Policy 7S. The Council has provided a reason for refusal which pertains to local need and refers directly to BBLP Policy 7S. It is therefore necessary for me to consider the policy.
30. In conclusion, the development does not serve local needs and support local facilities. Accordingly, it conflicts with BBLP Policy 7S as set out above.

f) Location

31. BBLP Policy 75's ten criteria deal with new employment development in the countryside. Criteria i – iv outline that new employment development, including sui generis uses will be supported in the countryside where the site is within a defined employment area (i); or for the reuse of land last used for employment purposes within the 'B' use classes, sui generis or for the reuse of existing buildings (ii); or for the expansion of an established business within its existing operational site (iii); or for the diversification of agricultural use and provision for other land based rural businesses (iv). Criterion i is not relevant as the site lies outside any defined employment area.
32. With regard to criteria ii – iv, the Council considers the land to have been in residential use and not used for any lawful employment/business purpose. The appellant considers that the land use remains agricultural and that this represents agricultural diversification specific to the site, but provides limited evidence to support this. I can see little connection between the site's use for car sales and agriculture or other land based rural enterprises. With little evidence, it is not possible to conclude that any of criteria ii – iv are met.
33. For criteria v – x, all criteria must be met and demonstrated. It is evident from my findings on character and appearance, living conditions, highway safety, and biodiversity that the development does not meet the requirements of criteria viii (highway safety); ix (character and appearance and living conditions); and x (biodiversity).
34. Criterion v refers to there being no existing building for reuse before providing a new building, but it is not clear what was on site before and whether this criterion is met as reference was made to buildings previously subject to a prior notification permission (Ref: 18/02571/CPQN) which have since been demolished. Criterion vii with regard to open storage does not appear to be relevant in this instance.
35. With regard to criterion vi and recent appeals², given the limited evidence, the appellant has failed to demonstrate that the proposed use needs to be located within the rural area and cannot be located within an Urban Area, Settlement Policy Area or within a designated Small Settlement.
36. The Council has powers for economic development deriving from the powers enshrined in the Localism Act 2011. Bedford has produced its second Growth Plan to support and grow businesses and this works together with the Transporting Bedford 2020 agenda and England's Economic Heartland and One Public Estate programmes. The Framework at paragraph 85 affords significant weight to the need to support economic growth and productivity and paragraph 89 of the Framework encourages use of previously developed land and sites physically well-related to existing settlements, where suitable opportunities exist. Despite the importance of economic growth, even if I afforded this significant weight, it would not outweigh the harms I have found in respect of the location, local need, character and appearance, living conditions, highway safety, landscape and biodiversity.
37. Concluding on this main issue, the development is not in a suitable location and is therefore contrary to BBLP Policy 75.

² APP/K0235/W/23/3316321, decision issued 1 December 2023; and APP/K0235/W/23/3324889 and APP/K0235/W/23/3325452, decisions issued 18 January 2024.

Other matters

38. The appellant has referred to the need for me to determine the appeal in accordance with the development plan unless material considerations indicate otherwise. In addition to having regard to the relevant development plan policies above, the appellant has highlighted the importance of ADLP Policy AD1 and BBLP Policies 46S, 51S, 53 and 54 on sustainable development; use of previously developed land and undeveloped land; climate change; development layout and accessibility; and energy efficiency respectively. No information has been provided by the appellant on the relevance and weight to be afforded to these policies. Consequently, they do not alter my findings.
39. Reference has also been made to the Framework's social, economic and environmental objectives and sustainable development principles, and to the importance placed in the Framework on the supply of homes, amongst other things. However, it will be seen from my decision that I have significant concerns about the paucity of information supplied.

Conclusion

40. For the reasons given above and having considered the development plan as a whole, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR