



Appeal Decision

Site visit made on 25 June 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/P0240/W/23/3332586

Land off Barton Road, Upper Gravenhurst MK45 4JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Bespoke Building Projects Ltd against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/00941/OUT.
 - The development proposed is erection of up to 9 residential units with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the Council issued its decision. The relevant changes only relate to paragraph numbering and do not fundamentally affect the substance of the matters under appeal. Comments have been sought from both parties on the recently published Written Ministerial Statement entitled 'Building the Homes We Need' and the consultation on planning reforms to the Framework. I have taken these matters into account in arriving at my decision.
3. Outline permission is sought with access to be considered at this stage. I have had regard to the indicative site layout, masterplan, site section and street scenes submitted with the planning application which illustrate one way in which the site could be developed. An alternative indicative street scene has been submitted with the appeal statement illustrating 9 single storey units (drawing no.2020-P7B). As this scheme is in Outline seeking permission for access only, I recognise that the indicative layouts are intended solely to demonstrate how the scheme could appear in the landscape. For this reason, as well as noting that the Council were able to consider the additional alternative street scene prior to the submission of their statement, I consider that no other interests would be prejudiced, and I shall therefore determine the appeal on the basis of the plans referred to in the application, as well as being informed by the alternative indicative street scene submitted by the appellant.
4. I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. I have also had regard to the duty imposed by section 72(1) of the Act which requires special attention to be paid to the desirability of preserving or enhancing the character

or appearance of a Conservation Area. Paragraph 195 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

Main Issues

5. The main issues are:

- Whether the appeal site would be a suitable location for housing, having regard to the development strategy for the area and access to facilities and services;
- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on the significance of nearby designated heritage assets.

Reasons

Location

6. The appeal site is a rectangular parcel of land to the south west of the settlement of Upper Gravenhurst which has a long frontage alongside Barton Road and some field boundaries of hedgerows and trees. The site would adjoin existing residential development to its north and eastern sides but to the west and south, the site adjoins relatively open agricultural land. The site is grazing land with a variety of small, mainly dilapidated structures towards its centre with an adjoining gated access. The scheme seeks to demolish the structures and erect up to 9 dwellings together with a new vehicular access and drive.
7. The Council's development strategy is set out in Policy SP1 of the Central Bedfordshire Local Plan (2021)(CBLP) which seeks to focus most development in urban areas where housing needs are the greatest, where services and facilities are available and most accessible, and seeks to respect and enhance the character and identity of settlements and the countryside.
8. CBLP Policy SP7 relates to the settlement hierarchy for the area and the use of settlement envelopes to determine where windfall development is appropriate. Upper Gravenhurst is designated as a small village and Policy SP7 states that in small villages, residential development will be mainly limited to infill within those envelopes. The appeal site would be outside the defined settlement envelope and would therefore be in the open countryside. Policy SP7 outlines that outside settlement envelopes the Council will recognise the intrinsic character and beauty of the countryside in accordance with the Framework and only particular types of development will be permitted.
9. The appellant suggests that due to the presence of buildings and their curtilages on the site that it should be considered previously developed land (PDL) which would be allowed under Policy SP7. The appellant describes long-standing, permanent structures on the site including greyhound kennels, and an enclosed exercise area to the north of those buildings, as well as other buildings used for storage, and a stable with associated paddocks.
10. Although there is no Planning Permission or Lawful Development Certificate before me to support the suggested uses of the site, I saw a cluster of largely dilapidated, single storey buildings constructed mainly of timber but with some

of concrete block or brickwork, together with hardstanding running between these structures leading up to the road. Most structures appeared in a dilapidated state, with some in a state of collapse and merging into the undergrowth. Only a couple of buildings nearest to the site access appeared to be in use, with one building being used as a stable and others appeared to be in use for storage. However, the overall extent of the buildings and associated immediate enclosures and surfacing appeared relatively limited, given the size of the site, and very haphazard in nature, and large parts of the site were open grassland.

11. I have considered the evidence before me, the historical documentation and the local representations both in support of and against the stated uses. However, in the absence of a Lawful Development Certificate I cannot be sure what the use or uses were, whether they were lawful and when some of these uses ceased. Furthermore, it is not for a Section 78 appeal to be determinative on this matter. The appeal site could not therefore be regarded as previously developed land as defined in Annex 2 of the Framework.
12. However, even if I had considered that part of the land would comprise PDL, and took full account of related land, it would still only be a small part of the wider site. This is confirmed by the appellant's Landscape and Visual Impact Appraisal Addendum (LVIA) suggesting that a fifth of the site should be regarded as previously developed land with the remainder being grazing land. Furthermore, Policy SP7 has an element of character and appearance, and this is a matter that I have considered below. As I have found harm to character and appearance in terms of the discussion below it also fails this part of the policy. As a result, the proposal would not comply with Policy SP7.
13. The appeal proposal indicates that 2 plots for self-build and custom housing (SBCH) would be made available. In this regard, the Framework recognises the need to provide housing for different groups of people including those wishing to commission and build their own homes. The provision of two self-build dwellings has the potential to make a limited but important contribution to the housing mix and the need for such plots in the area.
14. CBLP Policy H6 relates to the requirement for self-build and custom housing (SBCH) on developments of 10 or more dwellings. However, the policy also encourages provision on smaller sites. The supporting text, which helps to justify and explain the policy, sets out that sites should be within settlement envelopes and only outside them where they relate to affordable housing on rural exception sites.
15. Although the Council has a duty to meet the demand for SBCH within its area, the Council suggest that it is meeting this demand across the district and that there is no duty to deliver in a specific location. The Council references a recent dismissed appeal decision¹ supporting its policy approach for 2 self-build plots outside a settlement envelope, commenting that at the time Council had an unmet need for self-build plots. In this decision, the Inspector makes clear that the policy supports the delivery of suitable sites within settlement envelopes, and it further clarifies that any shortfall should not by default be met on land outside settlement envelopes.

¹ CB/22/04748/PIP

16. In the case before me, there is no substantive evidence to suggest that the proposal would cater for unmet demand in its area. However, even if a case could be made to demonstrate that the Council was not meeting that demand, the site would be outside the settlement envelope where there is no policy support for self-build housing. It would therefore not comply with Policy H6. Furthermore, there is no legal agreement with the appeal documentation to secure the SBCH plots which would be the most appropriate mechanism to ensure that the development would meet the legal definition in the Self-build and Custom Housebuilding Act 2015 (as amended) and it would not accord with the PPG². These factors greatly diminish the positive weight which I afford to the potential provision.
17. As the proposal relates to up to 9 dwellings, there would be no requirement under CBLP Policy H3 to provide for housing for older people which relates to development of 100 or more dwellings. However, Policy H2 of the Gravenhurst Neighbourhood Plan (GNP) (2021) requires residential development of more than five dwellings to provide a varied mix of house types, including a proportion of smaller homes suitable for the elderly. Therefore, the proposal to provide between 3 bungalows as part of the original proposal and all bungalows in the alternative indicative scheme submitted with the appeal statement would be a benefit to be weighed among other material considerations in the planning balance.
18. Given the proximity of the appeal site to Upper Gravenhurst and the presence of nearby dwellings, the site does not appear isolated in the context of paragraph 84 of the Framework. It also has the potential to support nearby local services and facilities in accordance with paragraph 83. The settlement is also relatively close to larger urban centres nearby. I also recognise that the Council considers that the settlement can support additional growth given its nearby housing allocations. Nevertheless, the appeal site is outside the settlement envelope, is not allocated for housing and is clearly in a rural setting with agricultural land to the rear and south.
19. Drawing all these matters together, whilst the appeal proposal would not represent the development of isolated homes in the countryside, the site would lie in the open countryside outside the defined settlement boundary, where planning policies require restraint to the spread of development in rural areas and to recognise the intrinsic character and beauty of the countryside. I have also taken account of the Government's Written Ministerial Statement and consultation on the Framework seeking to deliver more homes, prioritising brownfield land and promoting the delivery of mixed tenure development. However, for the clear reasons stated above, I conclude that the proposal would not provide a suitable location for the development having regard to the development strategy for the area and access to facilities and services. As such, whilst the proposal would comply with GNP Policy H2, overall, there would be clear conflict with CBLP Policies SP7 and H6 and the Framework as outlined above.

Character and appearance

20. CBLP Policy EE5 seeks to ensure that development safeguards the intrinsic character and scenic beauty and perceptual qualities of the landscape. It requires proposals to have regard to the key characteristics and sensitivities of

² Self-build and custom housebuilding.

the site and its setting as set out in the Bedfordshire Landscape Character Assessment (LCA).

21. The LCA identifies the site lying within the Upper Gravenhurst – Meppershall Clay Hills Landscape Character Area (8D). The LCA explains, amongst other things, that key characteristics of this landscape type include undulating hills with a distinct sense of elevation, a predominantly agricultural landscape with a mix of arable and pastoral land, irregular field patterns contained by hedgerows, and a distinctive settlement pattern with historic villages sited on high ground and open landscape falling away. The LCA sets out a landscape strategy which notes that the typical unsettled hill slopes are vulnerable to urban influence from expanding settlements.
22. The site forms part of the rural setting to Upper Gravenhurst and is representative of relatively open land, mainly set to pasture, on the edge of an elevated settlement with its land falling away from the road into the surrounding open countryside with hedged boundaries. Therefore, from what I have seen and read, the site and its wider surroundings are representative of the characteristics of this landscape character area.
23. I have considered the viewpoints in the LVIA and assessed these and the wider site context. The development is likely to be particularly noticeable from LVIA Viewpoint 4 from the Church of St Mary the Virgin where elevated views are afforded towards Upper Gravenhurst along Barton Road. From this vantage point the topography of Upper Gravenhurst can be appreciated with the settlement sitting on a ridge with the sloping appeal site falling away from the settlement edge. The illustration of the indicative, proposed development clearly shows that the dwellings would be a prominent and strong feature beyond the edge of the settlement, adding to the visible depth of the built form as a whole and eroding its organic form. This spread of development would be very visible from many points to the south.
24. The development would also be noticeable, but to a lesser extent, from Viewpoint 1 on Barton Road to the north of the site. Here, relatively close views of the sloping, rural, open countryside would be replaced with a dominant, built form. It would have an urbanising effect, changing this part of the rural setting of Upper Gravenhurst.
25. The proposed development would also be viewed from Barton Road which currently provides a clear edge to the settlement at this point. Although the mature hedge along the roadside would provide a reasonable degree of screening, and there would be the potential to set the development back from the boundary, the development would most likely still be visible above the roadside hedge. Furthermore, the two engineered access points would provide unrestricted views into the development allowing views of this urbanising encroachment, replacing sweeping views of fields and the wider landscape.
26. Even with additional landscape mitigation and considering the likely effect if the dwellings were reduced to single storeys, I consider that the development would still be clearly seen, especially on the approach to the settlement from the south. It would represent a creep of substantial built form out into the open countryside, cascading down the hillside, removing pastureland and eroding the unsettled hill slope, vulnerable to urban expansion. That effect would be more significant during the winter months when the surrounding vegetation and landscaping on the site would not be in leaf. I have also considered any

benefits which would be derived from the removal of the dilapidated structures on the site, but I did not find these especially intrusive within the site or in wider views, and they only occupy a relatively small area. Therefore, any beneficial effects would not justify the overall scale of harm to the landscape character that I have identified

27. The development of up to 9 dwellings would be a permanent, urbanising encroachment of the settlement beyond a clearly defined boundary into rural, open countryside. It would not therefore conserve, restore or improve the character and distinctiveness the landscape character area. Instead, this fairly substantial built form would diminish the intrinsic rural characteristics of the area around the settlement, would have an adverse effect on views and be contrary to the Landscape Strategy for the character area.
28. Consequently, I consider that the proposal would have a harmful effect on the character and appearance of the area. It would conflict with CBLP Policies SP7 and EE5 for the reasons stated above. It would also conflict with CBLP HQ1 and GNP Policies RC1, RC2, RC3 and RC4 which all seek to respect landscape and local character. Furthermore, for these reasons, it would not meet the Framework's requirement to be sympathetic to local character, including the surrounding built environment and landscape setting.

Heritage assets

29. The Church of St Mary the Virgin (Ref.1311911) (the Church) is a Grade 1 listed building which lies to the south of the appeal site across several agricultural fields. The list description, amongst other things, mentions that the Church is a 14th century coursed ironstone rubble building with ashlar dressings and clay tile roof. It comprises a chancel and nave forming a simple unit with a tower. In relation to this appeal, the building's special interest derives from its age, form, architectural details, and its function. The Church is located on top of a relatively exposed ridge, elevated by a walled churchyard, which gives it a commanding presence as a landmark within this open, rural landscape. The rural setting of the Church and views towards and away from it appreciably contribute to its historic context and significance. These views contribute to how the Church is experienced and appreciated. On my visit I could see that the appeal site could be seen in conjunction with views of the Church, albeit some distance away and that it clearly lies within its setting.
30. Wrest Park is a Grade 1 Registered Park and Garden (RPG) which lies to the north west of the appeal site, separated from it by an intervening field. The details before me suggest that The Wrest Park Conservation Area (CA) also follows a similar boundary. The official list entry for the RPG describes the site as an extensive and complex formal pleasure grounds and park around a country mansion dating from the 17th to 19th century, with 18th century work by Lancelot Brown. The description is extensive, and I note its references to the south east of the RPG which mentions a belt of woodland running along the east and southern boundaries, and beyond this towards Upper Gravenhurst is agricultural land. In relation to this appeal, the special interest and significance of the RPG and CA derives from its age and changes over time, the design of its many constituent parts, its function and association with various influential architects and owners.
31. Both the Council and Historic England consider that the proposed development would erode the settlement edge of Gravenhurst, consolidating the built form

and bringing the modern settlement closer to the designated heritage assets. In particular, Historic England considers that the development would be especially prominent within northerly views from the Church and its elevated churchyard.

32. Whilst I have already acknowledged that the appeal site can be seen in conjunction with views of the Church, just because it lies within its setting does not mean that there would automatically be harm to that setting. From the Church, the proposed development would be viewed against the backdrop of the existing built form of the settlement. Although I am considering an outline scheme, the proposed development would be likely to be similar in scale and form to existing buildings nearby. Therefore, although I have already identified that there would be harm to the character and distinctiveness of the landscape, I see no reason why that harm should also automatically trigger harm to the setting of the Church. In this respect, the expansion of the built form towards the Church would be minimal compared to the considerable amount of open agricultural land between the Church and the appeal site. Overall, as a result of the appeal proposal, there would be no appreciable diminishing of the prominence of this rural Church in its open, agricultural landscape or any harm to its wider setting.
33. In relation to the RPG/CA, the Council's Landscape Officer comments that due to topography and woodland blocks, Wrest Park, is not visible from the appeal site. Having viewed the site in its context, I have no reason to disagree. Nevertheless, both the Council and Historic England consider that the open agricultural land between the RPG and the appeal site as being an important buffer from the built-up development of the settlement. However, it has not been clearly explained to me how the proposed development would detrimentally impact on that buffer. This is especially so given the lack of intervisibility between the appeal site and the heritage assets and the presence of intervening buildings already closer to the heritage assets.
34. Whilst there would be some consolidation of more modern development in the vicinity of the RPG/CA, it appeared to me, from what I have seen and read, that the appeal site is not an intrinsic part of this buffer and therefore the proposed development would not appreciably reduce or erode it. The appeal site would be sufficiently far away from these designated heritage assets such that the separating open buffer would be maintained. Therefore, I consider that there would be no harm to the significance of the RPG or CA.
35. Given the above, I conclude that the proposal would have no harmful effect on the significance of nearby designated heritage assets. It would therefore comply with CBLP Policies HE2 and HE3 and GNP Policy HE1 and the Framework which require that development proposals seek to preserve, sustain and enhance the significance of heritage assets.

Planning balance

36. Whilst I have found no harm to the setting of designated heritage assets, the site would not be an acceptable location for housing, having regard to the development strategy for the area and the character and appearance of the area.
37. The Council suggests that it can demonstrate a 5-year housing land supply with its most recent updated figure standing at 5.36 years (July 2024). Further, the

Council cite several recent appeal decisions supporting its housing position. The appellant, whilst not explicitly challenging the figures, suggests that the Council's housing land supply position is precarious and heavily reliant on windfall sites for delivery. However, I see no adequate evidence why the Council should give greater weight to the deliverability of smaller windfall schemes given its current housing supply figure.

38. The scheme would be beneficial in helping assist with the Government's objective to significantly boost the supply of housing. The site would also be provided in a location with good access to services, facilities and public transport. Furthermore, the scheme would deliver on a windfall site which appears to be available and deliverable and would add to the mix and offer of housing in the area, providing both some housing for older people and self-build dwellings. However, on this latter matter, this provision is moderated by the concerns I have already raised. Therefore, even though the Council has a 5-year housing land supply, and the site is not allocated for residential development, these benefits afford substantial weight in favour of the scheme.
39. There would also be economic benefits to the area arising from construction activity in the short term, and the spending power of future occupants in the longer term. Social benefits would also arise from the occupants' activities in the local area. I give these benefits significant weight.
40. The appellant suggests that the scheme would redevelop an untidy, derelict site and achieve a high-quality development with landscaping benefits. However, this benefit is moderated by the harm I have found to the character and appearance of the area and, furthermore, high-quality development is an expectation of the development plan and national policy. I therefore attach moderate weight to these benefits. It is also suggested that the scheme would deliver environmental benefits in the form of Biodiversity Net Gain. However, this is a requirement as part of the proposal and as this scheme is in outline form it is not possible to quantify this.
41. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Overall, the cumulative benefits of the proposed development, which include the matters I have highlighted above, are clearly worthwhile and should be offered substantial weight in favour of the scheme. However, the proposal conflicts with an up-to-date development plan and these benefits would not be of sufficient magnitude to outweigh the harm and related policy conflicts that I have identified. That harm would be very significant and permanent and such that the scheme would not be in accordance with the development plan when considered as a whole.

Conclusion

42. For the above reasons, and having taken all other matters raised into account, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR