



Appeal Decision

Site visit made on 30 July 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2024

Appeal Ref: APP/P0240/W/23/3335931

Land to the east of 70 Newtown, Henlow SG16 6AJ

- 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 Garlill Limited against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/01657/FULL.
 - The development proposed is the erection of two storey dwelling with integral garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two storey dwelling with integral garage at land to the east of 70 Newtown, Henlow SG16 6AJ in accordance with the terms of the application, Ref CB/23/01657/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. I am also aware of the consultation draft from July 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area, having particular regard to the coalescence of settlements.

Reasons

4. The appeal site is set on the edge of the village of Henlow however it is set outside the defined settlement boundary and falls within an Important Countryside Gap as defined by policy SP5 of the Central Bedfordshire Local Plan 2021 (CBLP). This policy notes that new development will be permitted provided that it does not result in the physical or visual coalescence of settlements or settlement 'ends' and would not undermine the separate character, appearance and/or identity of settlements.
5. The site itself comprises a small open parcel of land that is fringed by conifer trees on two sides. It is set at the end of a row of four terraced houses and a detached office on one side, and, by a large garden to a detached property to

the other. Directly opposite is a relatively recent small estate known as Harrier Mill. Beyond the row of terraces and Harrier Mill to the west, the area gives way to open fields and a small cluster of farm buildings before reaching the village of Clifton.

6. I have considered the commentary provided in the Countryside Gap Assessments (2018) which includes a description of the open space between Clifton and Henlow. However, I note that the references in this document primarily relate to the area of land between Broad Street to the south and Stockbridge Road (which leads into Newtown) to the north. The Assessment notes that the gap to the north and along Stockbridge Road is wholly undeveloped and open, containing no urbanising features. This is indeed the case, but this character only begins at the end of the row of terraces to the west of the appeal site or on the western side of Harrier Mill. The appeal site is comfortably to the north and east of both of these and is well removed from the most integral part of the gap.
7. As such, it does not appear as the 'end' of the settlement. It would not result in additional coalescence of the two settlements as it reads as being part of the village. It is set in an existing space that is amongst established buildings and therefore would not erode the Countryside Gap or result in physical or visual coalescence. Indeed, the Council accepts that the row of terraces forms the end of the settlement and the proposal would be on the inner edge of this row.
8. Turning to the design of the proposed dwelling itself; it would be a two-storey building with integral garage which would broadly align with the front 'building line' formed by the row of terraces to the west. It would be of a comparable height to these and lower than the three storey homes on the opposing side of the road. I find that the design of the proposed dwelling to be acceptable in its own right and it would not be harmful to the character and appearance of the area. Moreover, it would not erode the individual identity of the two settlements which would retain the most important elements identified in the Countryside Gap Assessments document.
9. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area, nor would it result in any visual coalescence between Henlow and Clifton as it is not at a settlement 'end'. It would not encroach further into the countryside than existing development in the village. As such, the proposal complies with policies SP5, EE5 and HQ1 of the CBLP, the provisions of the Central Bedfordshire Design Guide and the Framework. These policies, when read together require development to be of the highest possible quality and respond positively to their context. Although the proposal does not strictly comply with the provisions of policy SP7, in that it is not for a rural worker, the re-use or replacement of an existing buildings or on brownfield land, I am satisfied that it complies with the development plan when read as a whole.
10. In reaching this conclusion, I have had regard to the prior refusals of planning permission in 1983 and 1995¹. However, the setting of the site and the policy context were clearly markedly different at the time of those decisions. I am also aware of the detached office building next door and the recent dismissal for the conversion of this building to a dwelling². However, this decision hinged

¹ MB/83/00717/OA & MB/95/00791

² APP/P0240/W/21/3269606

upon the change of character from a garage/office style structure to a dwelling and upon the living conditions of future occupants. These matters are of a different nature to those being considered here and despite the proximity of the two sites, the nuances of these cases are different.

Other Matters

11. I have been mindful of the comments of interested parties. In this regard I am aware that the Council can demonstrate a five year supply of housing land, which is not in dispute between the main parties, and the provisions of 11(d) of the Framework do not fall to be considered. However, I have found the proposal to be acceptable on its own merits. I have noted references to property boundaries; however issues of land ownership are not within my remit to consider as part of this appeal.

Conditions

12. I have been provided with a list of conditions by the Council. I have imposed these conditions with re-ordering and modifications as detailed below in order to accord with the Planning Practice Guidance. Conditions 3, 4 and 5 are pre-commencement conditions having regard to S100ZA of Town and Country Planning Act 1990 (the Act) and the Town and Country Planning (Pre-commencement Conditions) Regulations 2018. The appellant has been invited to comment upon these and upon which no objections were expressed.
13. Condition 1 is a general time limit and is imposed to comply with the Act. Condition 2 is imposed to ensure adherence to the approved plans and in the interests of certainty.
14. The submission of details of materials in the interests of the character and appearance of the area is required by condition 3. A slab level condition is imposed as condition 4 to ensure that the height of the building is not excessive and relates to neighbouring buildings.
15. Condition 5 relates to ground contamination to ensure the development does not adversely effect human health or the environment and to comply with CBLP policy CC8. I have amended this condition so as to make it clear that the detailed investigation is not required if a Phase I investigation reveals negative results.
16. Details of landscaping are required under condition 6. I have modified this condition to include reference to the restriction on the planting of trees in close proximity to the highway boundary in the interests of highway safety. Condition 7 is for the protection of trees on the site boundaries.
17. Condition 8 is imposed so as to provide detail on boundary treatments in the interests of the character and appearance of the area.
18. Conditions 9 and 11-14 (inclusive) are highway relevant conditions and are imposed in the interests of highway safety, to ensure safe pedestrian access, refuse arrangements, to ensure vehicles are parked clear of the highway and promote more sustainable modes of transport through the provision of electric vehicle charging.
19. Condition 10 is also a highway related condition and it includes works outside the application site. However, these works are to the public highway and the

condition has been proposed by the Highway Authority. Given the lack of a pedestrian footpath at the front of the appeal site, and that this has been proposed by the Highway Authority, I am satisfied that this condition is reasonable and necessary for the development to proceed.

Conclusion

20. The proposed development would be located in an Important Countryside Gap however due to its position would appear as part of the village and not result in physical or visual coalescence of neighbouring settlements. It would not be harmful to the character and appearance of the area. As such, the proposed development complies with the provisions of the development plan, read as a whole, and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, the appeal is allowed.

Nick Bowden

INSPECTOR

Schedule of conditions:

1. The development hereby permitted shall begin not later than three years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 2344 PL01B; 2344 PL02A; 2344 PL03A; 5317.Henlow.Garlill.TPP.
3. No development shall take place, notwithstanding the details submitted with the application, until details of the materials to be used for the external walls and roof of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
4. No development shall take place until details of the existing and final ground and slab levels of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the Local Planning Authority. Thereafter the site shall be developed in full accordance with the approved details.
5. No development shall take place until a scheme to deal with contamination of land has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 - a) A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with The Environment Agency Land Contamination Risk Management guidance (LCRM).

If contamination is found then:

- b) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with LCRM. The report shall include a detailed quantitative human health and environmental risk assessment.
- c) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

And:

- d) If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.

And, in any case pursuant to b), c) and d):

- e) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
- 6. The dwelling hereby approved shall not be occupied until a landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. Any trees or shrubs at the site frontage shall be set back 1 metre into the site measured from the highway boundary. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.
- 7. No equipment, machinery or materials shall be brought on to the site for the purposes of development until substantial protective fencing for the protection of any retained trees as shown on the Tree Protection and Method Statement (ref: 5317.Henlow.Garlill.TPP) has been erected. The approved fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site and the development shall be undertaken in full accordance with the Tree Protection and Method Statement. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 8. Prior to the first occupation of the development hereby permitted, a scheme shall be submitted for approval in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved scheme before the buildings are occupied and be thereafter retained.
- 9. The dwelling shall not be occupied until the junction of the proposed vehicular access with the highway has been constructed in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.
- 10. Details of a pedestrian refuge adjacent to the access with an informal pedestrian dropped kerb and an informal dropped kerb opposite shall be submitted to and approved in writing by the local planning authority and implemented prior to the development being brought into use.
- 11. The proposed vehicular access shall be surfaced in bituminous or other similar durable material (not loose aggregate) for a distance of 5 metres into the site, measured from the highway boundary, before the dwelling hereby approved is occupied. Arrangements shall be made for surface water drainage from the vehicular areas of the site to be intercepted and disposed of separately so that it does not discharge into the highway.

12. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose, other than as garage accommodation, cycle parking provision and storage pertaining to the residential use unless permission has been granted by the Local Planning Authority on an application made for that purpose.
13. Details of a refuse collection point located at the site frontage and outside of the public highway and any visibility splays shall be submitted to and approved by the Local Planning Authority prior to the occupation of any dwelling. The scheme shall be fully implemented prior to occupation of any dwelling and shall be retained thereafter.
14. Prior to the occupation of the dwelling hereby approved, details of an electric charging point, including details of equipment design and colour, within the site shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented, with the charging point available for use prior to occupation.

End of schedule