



Appeal Decision

Site visit made on 23 July 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2024

Appeal Ref: APP/P0240/W/23/3333606

15 Leighton Road, Heath and Reach, Central Bedfordshire LU7 0AA

- 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 Mr T Baird against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/00275/OUT.
 - The development proposed is described as proposed dwelling to include removal of dilapidated barns.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form states that the description of development has not changed from that entered on the application form. Nevertheless, a different description is entered in Part E of the appeal form. I have not been provided with confirmation from either party that a change to the description of development had been agreed. Accordingly, I have used the original description in my banner heading above.
3. The application was submitted in outline with all matters reserved for future consideration. The appellant has submitted indicative plans, including a block plan and elevations. This gives an indication of the siting of the dwelling, its visual appearance and position of the proposed access. I have therefore taken these into account in establishing whether it would be possible, in principle, to erect a dwelling on the site.
4. The appeal site is situated within the Heath and Reach Conservation Area and is proximate to Grade II listed buildings. I have therefore borne in mind the statutory requirements placed upon decision-makers by section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 (the Act).
5. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. In addition, on 30 July 2024 the government published a consultation on proposed reforms to the Framework and made a written ministerial statement (WMS) titled "Building the homes we need". These proposed changes can only be given limited weight at this stage. Nevertheless, I have gone back to the parties to seek any further submissions on the proposed amendments to the Framework and written ministerial statement.

Main Issues

6. The second reason for refusal relates to the lack of supporting information to demonstrate that the impact of the proposed development on Great Crested Newts (GCN) would be acceptable. However, DNA results from the pond have been obtained, and submitted with the appeal, confirming there is no evidence of GCN's. The Council has confirmed in their statement of case that this provides sufficient information to address the reason for refusal. Therefore, my decision is based on the outstanding issues in the remaining reasons for refusal.
7. Accordingly, the main issues are:
 - i) whether the proposed development would be inappropriate development in the Green Belt, including its impact on openness, having regard to the Framework and any relevant development plan policies,
 - ii) the effect of the proposed development on the character and appearance of the Heath and Reach Conservation Area (CA);
 - iii) whether the proposed development would preserve the setting of the Grade II listed building known as 13 and 15 Leighton Road;
 - iv) the effect of the proposed development on protected trees; and
 - v) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

8. Policy SP4 of the Central Bedfordshire Local Plan (LP) states that, within the Green Belt, there is a general presumption against inappropriate development. It goes on to state that development proposals will be assessed in accordance with government guidance contained in the Framework.
9. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they fall within one of the categories in the closed list of exceptions as set out in paragraph 154 of the Framework.
10. The appellant submits that the appeal site should be considered under criterion 154 g) (formerly paragraph 149) of the Framework which allows for the redevelopment of previously developed land (PDL) providing the new development would not have a greater impact on the openness of the Green Belt than the existing development.
11. Openness is an essential characteristic of the Green Belt. There are spatial and visual aspects to the assessment of the openness of the Green Belt.

12. Residential development is continuous along Leighton Road until the appeal site, beyond which is open land. The appeal site itself comprises an area of predominantly grassed land, which is understood to be used in association with No 15. It is largely open but contains a number of outbuildings, structures and trees. The appeal site represents a visual break, marking the point where the character of the area changes from residential to open countryside.
13. The appellant states that the appeal site is residential garden land and advances that the appeal site is PDL. The definition of PDL in the Framework¹, excludes land in built-up areas such as private residential gardens. However, PDL can include residential gardens where they are not in built-up areas². The Council considers the appeal site to be in a built-up area and I have no reason to reach a different view. Even if the appeal site were considered to be PDL, the determining factor in assessing the scheme in relation to the exception in the Framework at Paragraph 154 g) is the effect of the proposal on openness.
14. A pole barn of circa 100sqm is proposed to be removed from the site. I observed this to be a low-lying structure nestled into the north-eastern corner of the appeal site. Whilst the plans submitted are indicative, and the proposed dwelling may have a similar footprint to the building that is to be demolished, the proposed dwelling would have a considerably greater height and massing than the existing barn. In addition, areas of hard surfacing on the site would be increased and would erode openness within the confines of the site. As such the development would have a significantly greater impact on the openness of the Green Belt in both spatial and visual terms, than existing development.
15. The site benefits from mature landscaping. Nevertheless, the increased scale and prominence of a dwelling would be more noticeable than the building it would replace, and I am not satisfied that existing landscaping would assimilate the development into its surroundings. I note that the appellants intend to plant trees that may help screen the development. However, such planting would take time to become fully established and would not be a permanent feature. Moreover, the proposal needs to be considered as built development irrespective of possible screening. Regardless of its limited public view, and despite having a similar footprint to the pole barn, the proposal would introduce a significantly increased volume of built development when compared to the existing structures, thereby reducing Green Belt openness in spatial terms.
16. Even considering the application in outline form, I have found that the proposal's increased scale and extent of built development would have a greater impact on the openness of the Green Belt than the existing development. The loss of openness would be localised, nevertheless, there would be a moderate level of harm to openness in spatial terms.
17. The proposed dwelling would be bound by open fields. For this reason, in my view, the proposal would not constitute limited infilling. Furthermore, whilst a building is to be removed the appeal proposal would not be a replacement of a building that is in the same use and, based on the evidence before me, would be materially larger than the one it replaces. Consequently, the proposal would

¹ Annex 2 to of the Framework

² Dartford Borough Council v The Secretary of State for Communities and Local Government and Ors [2017] EWCA Civ 141.

not constitute one of the exceptions set out in paragraph 154 of the Framework, or any other paragraphs of the Framework.

18. The appellant submits that the proposed changes to the Framework in relation to 'grey belt' provides additional support for the proposal. However, for the reasons stated above, I do not consider the site to be PDL. Moreover, given the proposed amendments form part of a consultation it is not at the stage of replacing current policy. Accordingly, this does not alter the current policy position in the Framework relating to the types of development that are not inappropriate. I therefore afford this limited weight.
19. I therefore conclude that the proposal constitutes inappropriate development in the Green Belt, as set out in the Framework, and would harm the openness of the Green Belt. Furthermore, in doing so, the scheme fails to assist in safeguarding the countryside from encroachment, one of the five purposes of the Green Belt and would therefore not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.
20. For the reasons stated, the proposal would therefore comprise inappropriate development in the Green Belt that would, by definition, be harmful to the Green Belt. It would fail to meet the exceptions set out in paragraph 154 of the Framework. There would also be conflict with Policy SP4 of the LP, which amongst other things, requires that planning applications within the Green Belt are considered in line with the provisions of the Framework.

Conservation Area

21. The boundaries of the CA encapsulate the built form that addresses Leighton Road, the principal route through the settlement, as well as undeveloped garden plots and green fields to the rear. The significance of the CA is partly informed by the historic layout, varying building and house styles, traditional materials and linear building pattern along routes through the village. The Heath and Reach Conservation Area Appraisal recognises the quality of the village as a small rural village in a countryside setting. It notes the inclusion of open fields within the CA as an important and historic aspect of the character and appearance of the CA.
22. The appeal site has a verdant character, and in combination with neighbouring parcels of land, provides an undeveloped open space that is of value to the character and appearance of the CA. This emphasises the historic relationship of the village with the countryside around it, contributing positively to the historic interest of the CA.
23. Whilst recognising that the scale and design of the proposed dwelling is reserved for subsequent approval, the indicative plans provide some parameters for assessment. Irrespective of my concerns of the scale and location of any dwelling, the proposal would clearly have a domestic character that would lessen the open and verdant character of the appeal site that contributes to the semi-rural character and appearance. Local topography means that the development of this part of the site would be visible, in particular from views to the south and east.
24. Development in the locality is characterised by predominantly frontage development set within elongated and spacious plots. The plot would be substantially smaller than surrounding properties and the introduction of a

dwelling in this back-land position would be at odds with the pattern of development in the locality.

25. Although the details are indicative, the proposed dwelling would be larger and more visible than the existing structure that is to be removed. The appeal site benefits from established landscaping that would screen elements of the proposed development from view. Nevertheless, the proposed development would be visible in views from Eastern Way, and from the rear of existing properties in the immediate vicinity of the site.
26. It is indicated that the new dwelling would be finished in black weatherboarding with a clay pan tile roof. The appearance of the building would not in itself be harmful in this rural location, and the extent of visual impact could be softened to some extent by additional planting. Nevertheless, the siting of the development and its visibility would result in harm to the character and appearance of the area, and that of the CA.
27. In addition, the proposed dwelling would be accessed via an elongated track that would cut across the currently open field. The precise details of which would be subject to consideration at the reserved matters stage, and surface materials could be conditioned. I accept there is an existing gated access on Eastern Way. However, this is an unobtrusive opening with no formal track across the field. Modifications would be required to provide for a suitable access, including widening the radius and the provision of visibility splays. Such works would materially alter the visual appearance of the access. Given the open nature of the land, combined with the significant length of track, the proposed access track would be prominent and incongruous and would be highly visible from the streetscene. As such it would have an urbanising impact on the open rural character of this part of the CA.
28. I acknowledge the removal of the dilapidated barn would be of benefit to the area. However, given this barn is low-level and not highly visible within the wider landscape I afford this limited weight. In any event, the proposed development would be of a considerably greater scale and massing than the existing structures and would be more visually prominent wider views. As such it would have an urbanising impact on the open rural character of this part of the CA.
29. For the reasons stated the proposal would fail to preserve or enhance the character or appearance of the Heath and Reach CA. Conflict therefore arises with Policies HQ1 and HE3 of the LP insofar as these require development to sustain and, where possible, enhance the significance of heritage assets, the character of the development to be locally inspired in conservation areas, and that the appearance of the building contributes to the enhancement or creation of a positive character. It would also conflict with Policy HQ8 of the LP which seeks to resist back-land sites where they are against the existing pattern and grain of development and where the character and appearance of the area would be harmed.
30. Given the scale of the impact of the proposals, the degree of harm to the significance of the CA as a designated heritage asset would be less than substantial. The Framework indicates that this harm should be outweighed by wider public benefits, which requires a balanced judgment. I turn to this in the overall heritage and planning balance later in my decision.

Setting of listed buildings

31. The Grade II listed building known as Nos 13 and 15 Leighton Road (List Entry No 1158564) comprises an attached pair of dwellings on the east side of Leighton Road. The statutory list description identifies it as 17/18th century with later alterations of red brick façade and a modern clay roof. The significance of the listed building is derived in part from its age, surviving historic fabric and its relationship to the evolution of the village as a farmhouse. The evidence suggests the building to be of high significance, heightened by its historic position in a core of mediaeval Heath.
32. The setting of the building has clearly changed over time. Evidence of the tractor shed and pole barn, as survival of farm buildings, provides legibility of the property's rural origins. Although there has been development to the rear of the listed building the land has retained a relatively open and undeveloped character, providing it with a degree of spaciousness that contributes to a semi-rural character. Consequently, the undeveloped areas, which include the appeal site, are part of the setting of the listed building that better reveals its significance as a heritage asset.
33. The existing structure is low-level, and not highly visible, and would likely have been a remnant farm building typical in an agricultural context. The appeal scheme, however, would, introduce a domestic structure and hard landscaping that collectively would urbanise this part of the appeal site and encroach into the spacious setting of the listed building. The proposed dwelling would be conspicuous and would harm the significance of the listed building through development within its setting.
34. The introduction of a detached dwelling would undermine and weaken the semi-rural qualities of the appeal site as well as intrude into the sense of spaciousness that surrounds the listed property. Furthermore, the formalisation of an access track would materially alter the visual appearance of the land. The suburbanising impact of the widened and re-surfaced access would be prominent and conspicuous. Consequently, the proposed development would fail to preserve the setting of the Grade II listed building, leading to conflict with the statutory presumption under s66(1) of the Act.
35. Through development within the setting of the Grade II listed building there would be some small harm to significance. Accordingly, the proposal would fail to comply with Policies HQ1 and HE1 of the LP insofar as it seeks to ensure development sustains, and where possible, enhances the significance of heritage assets including listed buildings. Bearing in mind the scale and nature of the proposal relative to the listed building, the degree of harm to its significance would be less than substantial, which I consider further in the overall Heritage Balance.

Trees

36. The site contains a number of mature and semi-mature scattered trees that, due to their height, are visible from Eastern Way and contribute positively to the character of the area.
37. Whilst the layout is a reserved matter, the indicative site layout proposals have been considered for their impact upon the surrounding trees within the Tree

Survey, Arboricultural Implications Assessment and Method Statement (AIA)³. The appellants AIA indicates the removal of 3no trees and that Trees T5 and T6 would require pruning to accommodate the proposed development.

38. It is understood that the species of tree do not respond well to pruning. Furthermore, uncertainty regarding construction techniques and subsequent maintenance requirements casts doubt on the degree of long-term tree retention possible.
39. Whilst accepting that the proposal is in outline form, from the evidence before me given the limitations of the site dimensions and the parameters of the dwelling proposed, I cannot be satisfied that the proposal would not result in the removal of trees to the detriment of the visual characteristics of the CA. Any replacement planting would fail to replicate the age and mature appearance of the existing trees and, accordingly, there would be harm to the character and appearance of the CA in the short term.
40. Concluding on this matter, I cannot be satisfied that the proposal would not harm character and appearance, with particular regard to the impact on trees. I therefore find conflict with Policies EE4, EE5 and EE8 of the LP. Taken together, these policies seek to avoid the loss or deterioration of protected trees. Similarly, I find conflict with the Framework which recognises that trees make an important contribution to character and that existing trees should be retained wherever possible.

Other considerations

41. The appellant has identified considerations that they contend weigh in favour of the appeal proposal, and I have considered and taken them all into account.
42. The proposal would deliver a dwelling that could be built-out quickly, add to the choice of homes and supporting the government's objective to boost the supply of housing. I also acknowledge that the Framework encourages self and custom build homes and that the Council recognise that the availability of such plots in the Parish is below published targets. Whilst the Council is supportive of proposals for self and custom build projects Policy H6 of the LP states that the delivery of such plots must comply with all housing and other policies set out in the Plan.
43. I appreciate that the appellant wishes to construct the dwelling so that they can continue to reside in the locality. The appellant asserts that the dwelling would be constructed to provide accessible living. Whilst I am mindful of the needs of family members, from the evidence before me, it has not been demonstrated that they cannot be met by a less harmful scheme. My attention has also been drawn to the need for housing for older people. However, no mechanism to secure this has been put forward. Accordingly, these matters attract limited weight in favour of the proposal.
44. I agree there would be some visual improvement with the removal of the pole barn. Nevertheless, the existing barn is representative of the site's former agricultural use and is not highly prominent within the local landscape. I therefore attribute limited weight to its removal.

³ Green Leaf Planning

45. The appellant advances that the proposal would contain a number of sustainability credentials which are commendable. Achieving a high level of sustainability through design and construction is something the government seeks to encourage. However, there is nothing before me to indicate that its design, to be secured at Reserved Matters, would include new or original methods or be otherwise exceptional or innovative. Consequently, the quality of the design carries little weight in favour of the proposal.
46. There would be some economic benefits associated with the construction phase and as future occupiers would feed into the local economy. There would be some social benefits derived from support to local services and facilities within the village. However, given the limited scale of the proposal, the contribution would be limited.

Other Matters

47. I note the absence of objections from consultees on highway and archaeological grounds and concur that had I been minded to allow the appeal suitable conditions could have been attached.
48. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.
49. Support for the proposal from residents is noted, however, this does not overcome the harms I have identified.

The Heritage Balance

50. In terms of the CA and Nos 13 and 15 Leighton Road the harm to the significance of the designated heritage assets would be less than substantial. In doing so I have found conflict with the statutory presumptions under s66(1) and s72(1) of the Act.
51. The Framework requires that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset requires clear and convincing justification, with any such harm to be weighed against any public benefits.
52. The benefits of the proposal, identified above, would be relatively modest. Even cumulatively, the wider public and planning benefits associated with the dwelling would be modest and carry moderate weight in favour of the proposal.
53. Accordingly, the weight of public benefits in favour of the proposed development would not be sufficient to outweigh harm to the significance of the identified designated heritage assets. The proposal therefore fails to accord with the historic environment protection policies of the Framework.

The Green Belt Balance

54. As established above, the proposal would be inappropriate development in the Green Belt. It would cause moderate harm to the openness of the Green Belt. In these respects, the proposed development would not accord with the development plan policies and the Framework. I attach substantial weight to this harm, as directed by the Framework.

55. The heritage harms would cause harm to the Green Belt even if there are no very special circumstances.
56. I have examined the other considerations advanced by the appellant. However, the total weight of the other considerations does not clearly outweigh the totality of harm by reason of inappropriateness, and any other harm, of the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.
57. The identified harm to the Green Belt provides a clear reason for refusing planning permission and the proposal would not benefit from the presumption in favour of sustainable development⁴.

The Tilted Balance

58. The Council's housing land supply position is in dispute between the parties. The appellant claims that the Council fail to have a 5-year supply, with my attention drawn to a recent appeal decision at Land North of Stockbridge Road⁵ that found the Council could not demonstrate a five-year housing land supply. Following this decision the Council's Five Year Housing Land Supply Statement and Methodology has been updated⁶. The Council maintains that it can demonstrate a 5-year housing land supply and I have no substantive evidence before me to conclude otherwise.
59. In this circumstance, even if I were to accept that the Council did not have a Framework compliant housing land supply, paragraph 11 of the Framework clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt and designated heritage assets, provide a clear reason for refusing the development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development. Accordingly, I do not need to reach a conclusion on whether or not the Council can demonstrate a 5-year supply of housing land.

Conclusion

60. My above findings bring the proposal into conflict with the development plan when read as a whole. There are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

R. Gee

INSPECTOR

⁴ See footnote 7 of paragraph 11d) of the Framework

⁵ APP/P0240/W/23/3324532

⁶ 19 July 2024