



Appeal Decision

Site visit made on 26 June 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/P0240/W/23/3335828

55 Dunstable Road, Caddington, Central Bedfordshire LU1 4AL

- 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 Mr G Sewell of Clovercourt Limited against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/01781/FUL.
 - The development proposed is described as the "removal of existing dwelling and erection of five 3 bedroom dwellings. New access road, car parking, gardens and associated works."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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. Those parts of the Framework most relevant to this appeal have not been amended.
3. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement titled "Building the homes we need". Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
4. Following the determination of the planning application, the appellant has submitted a revised proposed site plan, drawing no. J1031/PP110 Rev B, and a Highway Statement, prepared by Bellamy Roberts, which includes revised swept path drawings, as part of the appeal. I have considered whether it would be appropriate to accept this additional information, having regard to the guidance in the Procedural Guide: Planning Appeals – England (2024), and the Wheatcroft principles¹, which has now been advanced by the Holborn Studios judgement².

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

5. While the additional information has not been subject to wider publicity, the Council and an interested party have commented on this additional information. Moreover, the Highway Statement is a technical document and the amendments proposed as part of the revised proposed site plan are minor in nature. As such, this information does not substantially alter the location or nature of the scheme which was subject to wider publicity. Therefore, I am satisfied that interested parties have not been unduly prejudiced by my acceptance of this late evidence.
6. The Council is intending to review the Local Plan, but the evidence indicates that it is not well advanced at this stage. Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.
7. The fifth reason for refusal related to the provision of parking within the appeal site. The submitted a revised proposed site plan, drawing no. J1031/PP110 Rev B, shows a clearance strip between the parking spaces and plot 1, with a chamfered end to the parking spaces closest to Dunstable Road. The Council has confirmed that this revised layout addresses their fifth reason for refusal.
8. In respect of the seventh reason for refusal, the appellant has submitted a signed and dated unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). I deal with this later in my decision.

Main Issues

9. Since the Council's concerns in respect of the fifth reason for refusal have been addressed, the main issues are the effect of the proposed development:
 - on the character and appearance of the area, including landscaping, and
 - on highway safety, with regard to the proposed access and driveway, access gradient and turning area.

Reasons

Character and appearance

10. The appeal site is located in a predominately residential area. Although there is a mix in property age, design and form, the built development is typically two storeys in height, with frontage properties setback from the highway. While there are some modest variations, there is a broad uniformity to the build line along Dunstable Road. The siting of properties back from the highway, together with trees, hedges and other vegetation, give the area a verdant and spacious character.
11. The appeal site is located on a prominent corner plot and comprises a chalet bungalow of modest height. This property, 55 Dunstable Road, sits within a large, landscaped plot, that is elevated and setback significantly from the highway. The appeal site, by reason of No 55's relatively low height and siting within its plot, together with the extensive vegetation, contributes to the character and appearance of the area.
12. The appeal proposal seeks to erect three properties in a terraced row along the appeal site frontage, with a semi-detached pair located towards the rear of the site. A private driveway would run almost the full depth of the appeal site and provide access to the development proposal from Dunstable Road.

13. While the appellant asserts that the proposed properties have been designed to be 1.5 storeys, to reduce their overall height, the terraced row would, nevertheless, be markedly taller than the chalet bungalow it would replace.
14. The submitted street scene indicates the terraced row would sit lower than 2 Mossman Drive and higher than 2 Holly Farm Close, taking account of land levels along Dunstable Road. However, the terraced row would be located closer to Dunstable Road than No 55 and substantially forward of the frontage of 2 Mossman Drive. While the frontage depth would be similar to that of other properties within the wider area, the relationship with No 2 would be pronounced and jarring, at odds with the gradual changes in frontage depths between properties along Dunstable Road.
15. As a result of its height and proximity to Dunstable Road, the terraced row would appear overly prominent in the street scene and visible above the frontage hedge, which is to be retained. Moreover, the prominence of the appeal scheme would be further exacerbated due to the elevated land levels within the appeal site.
16. Consequently, while noting the appellant asserts the existing layout represents a relatively inefficient use of the land, the appeal scheme would result in a conspicuous and dominant form of development that would erode the spaciousness of the appeal site, at odds with the prevailing character and appearance of the area.
17. There are various trees, hedges and landscaping within the appeal site, a large proportion of which have been identified for removal, in order to facilitate the proposed development. The submitted BS5837:2012 Tree Survey and Arboricultural Impact Assessment dated 18 April 2023, reference GHA/DS/162250:23, states that trees identified as G1, G2, G6 and a section of G7, T8, G11 and G12, all graded Category C, would need to be removed. The assessment highlights the existing planting cannot be effectively retained as it is either located within the outline of the new structures or located too close to make their retention feasible.
18. The revised proposed site plan indicates the location of the proposed landscaping, with four new trees within the site frontage, alongside the existing frontage hedge, and a fifth tree located to the rear of the site. Retained and replacement hedges are shown along the side and rear boundaries of the appeal site. While acknowledging there is space within the site frontage, a large proportion of the replacement landscaping would fall within the private gardens of the proposed properties.
19. Having regard to the extent of the access road, parking and turning areas, together with the siting of the properties, the scope for replacement landscaping to mitigate against that which is to be removed and provide screening to the proposed development, is limited. Moreover, the proximity of the access road and parking areas give rise to concerns in respect of the longevity of the boundary hedge.
20. The removal of a small section of landscaping within the submitted revised proposed site plan, further indicates the lack of space within the proposed layout to provide effective landscaping. Consequently, the loss of the landscaping proposed, which would not be effectively mitigated, would unacceptably harm the verdant character of the area.

21. A number of other sites have been drawn to my attention, including other forms of backland development and planning permission for 47 dwellings on land opposite the appeal scheme. The other backland schemes comprise detached dwellings, erected to the rear of existing development. The outline scheme would have a much larger quantum of development than that proposed as part of the appeal scheme. As such, while noting that backland developments form part of the wider area, these examples are not directly comparable. In any case, I have considered the appeal scheme on its own merits.
22. For these reasons, the proposed development would result in unacceptable harm to the character and appearance of the area, including landscaping. This is contrary to Policies HQ1, HQ8 and EE4 of the Central Bedfordshire Local Plan 2021 (LP) and the guidance within the Central Bedfordshire Design Guide 2023. Collectively, these seek, among other things, that development proposals respond positively to their context, do not harm the character and appearance of the area, justify the loss of any trees or hedgerows, with lost assets appropriately replaced, and include landscaping schemes that take account of landscape character. It is also contrary to the Framework which seeks, among other things, to ensure development is visually attractive and sympathetic to local character and contributes to and enhances the natural and local environment.

Highway safety

23. The appeal scheme seeks to utilise and improve the existing access and driveway serving No 55, which provides access onto Dunstable Road. While only a snapshot in time, during a quieter part of the day, I observed a moderate flow of traffic along Dunstable Road. In addition, a pedestrian footway runs along the front of the appeal site.
24. While the evidence indicates that deliveries to the appeal scheme are likely to be low and infrequent, there is dispute between the parties as to the likely timings of such deliveries. Moreover, the appellant asserts that generally traffic flows follow similar patterns. However, these matters cannot reasonably be restricted or controlled. As such, there is the potential for deliveries to the appeal site to occur during both peak and quiet times, with the possibility, albeit a low one, that two vehicles, travelling in opposite directions, could meet one another along the driveway.
25. For highway safety reasons, the Council require an access width of 4.8m for a distance of 15m, as they state this would allow space for a delivery vehicle and car to pass each other within the confines of the appeal site. It would also allow a delivery vehicle to park and deliver to the three dwellings that would front Dunstable Road, while not causing an obstruction to those vehicles wishing to enter or leave the appeal site.
26. The submitted plans show a proposed access layout which falls below this stipulated requirement. The appellant considers this requirement excessive and highlights that Manual for Streets recommends that road design should not be prescriptive.
27. While having regard to the definition of a servicing vehicle, the submitted swept path drawings show that two vehicles, including a delivery vehicle, could pass at the entrance of the appeal site. However, to complete such a

manoeuvre, the evidence indicates that any vehicle, not just delivery vehicles, entering the appeal site would need to wait across the pedestrian footway, in order to allow a vehicle exiting the appeal site sufficient space to pass. Similarly, any delivery vehicle attempting to deliver to the frontage properties, would be likely to need to park overhanging the footway, to ensure it does not obstruct other vehicles from using the driveway.

28. Moreover, those drivers entering the appeal site from Dunstable Road, particularly when approaching from a north easterly direction, would not have sufficient forward visibility to see any vehicle exiting the appeal site, particularly if they keep close to the nearside of the junction, as indicated on the swept paths. To compensate for this lack of visibility, drivers are likely to make a wider turn into the site. Such a manoeuvre, while increasing forward visibility, would reduce the space available to allow any vehicle exiting the site to pass.
29. Should this occur, and the vehicle entering the appeal site meet a vehicle travelling in the opposite direction along the private driveway, the driver attempting to enter would need to reverse and manoeuvre within the appeal site entrance, close to or within the footpath and highway, in order to provide sufficient space to allow the oncoming vehicle to pass.
30. While the Highway Code gives priority to pedestrians, any vehicle already waiting on the footpath is likely to cause an obstruction to any pedestrian approaching. Moreover, any driver reversing back towards Dunstable Road to allow a vehicle to exit the appeal site would have restricted visibility of any approaching pedestrians, particularly those advancing from a north easterly direction. Consequently, the appeal scheme would be likely to result in conflict between pedestrians and vehicles, to the detriment of highway safety.
31. The Council indicated, during consideration of the planning application, that a length of 6.2m for a light goods delivery vehicle was appropriate. Further swept paths have been provided within Appendix 5 of the appellant's Highway Statement. Although the appellant states that the likelihood is that a driver of a vehicle of this size would utilise Dunstable Road to deliver goods, there is nothing to restrict such a vehicle from entering the appeal site. Therefore, sufficient space for the turning of light goods delivery vehicles is required in order for them to be able to enter and exit the site in a forward gear.
32. While there may be no specific requirement for a delivery vehicle to manoeuvre using a three-point turn, the submitted swept path shows that the movements required would be convoluted and require a vehicle to carry out a five-point turn, using full lock, close to a boundary of the site, parking spaces and a plot boundary. This would leave marginal room for error and demonstrates there is restricted space for drivers to carry out the necessary turning manoeuvres comfortably.
33. Consequently, the difficulties of manoeuvring such vehicles within the site, could likely lead to drivers exiting into or out in reverse gear. Such manoeuvres would further add to the highway safety concerns raised above in respect of the narrow width of the driveway and potential conflict between vehicles entering and leaving the appeal site and pedestrians utilising the footway that runs along the site frontage.

34. The Highway Construction Standards and Specification Guidance (HCSSG) states that a private drive gradient should be no steeper than 1 in 10 for the first 6m. The revised proposed site plan includes spot levels along the drive, confirming that the minimum gradient stipulated within the HCSSG could be achieved. While the Council acknowledge this, they query whether the specified gradient could be achieved without impacting upon levels within the wider site. As I am dismissing on other grounds, it has not been necessary for me to reach a conclusion on this additional matter.
35. For these reasons, I conclude that while the proposed development would provide an appropriate access gradient, it would have an unacceptable harmful effect on highway safety, with regard to the proposed access and driveway and turning area. This is contrary to LP Policy T2 which seeks, among other things, to ensure development proposals do not have a detrimental effect on highway safety, provide safe and convenient access and make adequate provision for loading and unloading, circulation, serving and vehicle turning. It also conflicts with the requirements of the Framework, which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

36. The site lies within the 12.6km Zone of Influence of the Chilterns Beechwoods Special Area of Conservation (SAC). This is a European site of nature conservation importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The submitted UU makes provision for financial contributions towards measures intended to avoid and mitigate against adverse effects on the SAC. As the competent authority for this appeal, I would need to undertake an appropriate assessment in accordance with the Regulations to confirm that the integrity of the European site would not be adversely affected. However, it has not been necessary for me to pursue this further because the scheme is unacceptable for other reasons.
37. The proposed five residential units would make efficient use of the land and contribute towards local housing supply. The appeal site lies within Caddington, which the appellant highlights is identified as a Minor Service Centre, offering a range of shops, services, facilities and public transport links. As such, the appeal scheme would support the Government's objective of significantly boosting the supply of homes, in a location close to local facilities, amenities and good public transport. The Framework is also supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would also provide electric vehicle charging points. Given the scale of the proposed development, even cumulatively, these benefits attract modest weight.
38. The appellant asserts that the broad principle of the development is acceptable and that the density and design of the development reflects that of the surrounding built form. They also highlight that the Council have not raised any objections with regard to internal space standards, light and outlook, external garden amenity areas or the living conditions of neighbouring occupiers. An absence of harm in respect of these matters are neutral factors, which weigh neither for nor against the proposal.

Conclusion

39. For the above reasons, I conclude that while the appeal scheme would provide an appropriate access gradient, the harm identified in respect of the character and appearance of the area, including landscaping, and highway safety, with regard to the proposed access and driveway and turning area, is determinative. Therefore, the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR