



Appeal Decision

Site visit made on 19 August 2024

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/K0235/W/24/3339233

The Ridings, Cleat Hill, Bedford MK41 8AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mingalone against Bedford Borough Council.
 - The application Ref is 23/01801/FUL.
 - The development proposed is described as the erection of three(3x) single-storey detached dwelling-houses and garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address in the banner above has been taken from the Council's acknowledgement letter and appeal form, as the address on the application form appears to include the incorrect street.
3. Since the appeal responds to the Council not having determined the application, there is no decision notice. Nonetheless, they have stated that the application would have been refused. The reasons for which have informed the main issues of the appeal. Specifically, the Council has confirmed that, had the appeal not occurred, planning permission would have been refused on the grounds that the site is not a suitable location for the proposed development, and the effect of the development on the character and appearance of the area; highway safety; protected species and habitats; trees; and, the Mowsbury Hill Scheduled Ancient Monument (MHSAM), including archaeological assets.

Main Issues

4. The main issues are:
 - i) Whether the site is a suitable location for the proposed development;
 - ii) The effect of the development on the character and appearance of the area;
 - iii) The effect of the development on highway safety;
 - iv) The effect of the development on protected species and habitat, with particular regard to Great Crested Newts (GCNs), bats and birds;

- v) The effect of the development on trees; and,
- vi) The effect of the development on the Mowsbury Hill Scheduled Ancient Monument (MHSAM) and archaeological remains.

Reasons

Location

5. The Ridings is a large detached dwelling set within a generous curtilage. The Ridings is set behind Mowsbury House, which has a frontage with Cleat Hill/Bedford Road (the B606). The Ridings and Mowsbury House are located at the top of Cleat Hill, set on the edge of a cluster of residential development. The site is located at the edge of the cluster and has an interface with the wider countryside beyond on side boundary marking the transition with the countryside. A public right of way, which leads to the nearby MHSAM, runs parallel with the site boundary. The appeal site includes a number of trees, while a woodland is located beyond its rear boundary.
6. Policy 4S of the Bedford Borough Local Plan 2030 (2020) (the BBLP) sets out the distribution of housing within the Borough and identifies a number of settlements where housing will be directed. Cleat Hill is not listed as an identified settlement for housing development within this policy. Policy 6 relates to small settlements and lists a number of settlements within which development may be supported. Again, Cleat Hill is not identified as a settlement within this policy.
7. However, the justification to Policy 6 states that Small Settlements have a *"definite built form"* which *"include 30 or more dwellings"*. The justification goes on to state that *"the settlements that qualify as Small Settlements may change during the life of the plan as a result of development"*. As such, my interpretation is that settlements specifically identified in Policy 6 may not necessarily be a closed list.
8. On leaving Bedford along Cleat Hill/Bedford Road (B606) residential development is provided on both sides of the road. There are two distinct character areas. Initially development is concentrated around two cul-de-sacs of close-knit spacing, before transitioning to larger dwellings set in spacious and verdant plots. The appeal site is located in the latter area. Notwithstanding the presence of the large gap in built frontage created by the golf course, there is no sense of departure from a settlement. This is because residential development along Cleat Hill is continuous until after a sharp bend in the road which is past the appeal site. The number of dwellings in this area is not insignificant. This is indeed acknowledged by the Ravensden Neighbourhood Development Plan 2030 (the RNP) which confirms that *"there are some 75 dwellings in the Cleat Hill area"*. I am therefore of the opinion that Cleat Hill is indicative to a small settlement. The appeal site is not detached from this pattern of development and, therefore, falls within this small settlement to which Policy 6 is relevant.
9. It is the Council's view that the site falls outside of a small settlement and, therefore, that development ought to be considered against Policy 7S, which relates to development in the countryside. Policy 7S identifies that

development will be permitted if it is appropriate in the countryside in accordance with, inter alia, a made neighbourhood plan¹.

10. The RNP was "made" in March 2023 and, as such, forms part of the Development Plan for the area. The RNP, at Chapter 5, sets out its policies for the neighbourhood plan area relating to "Settlements and Housing". This includes Policy RNP1 which relates to the Cleat Hill/Mowsbury area. RNP1 is supported by a Policy Map which confirms where the policy applies. This is identified as a "Special Character Area". The appeal site lies wholly within the Special Character Area boundary covered by RNP1.
11. My attention has been drawn to an appeal decision for housing development at Wagstaff Close². Wagstaff Close also falls within the Cleat Hill Special Character Area as defined by RNP1. In that appeal the Inspector also concluded that "*The RNP is a made plan, as referred to in criterion v. of Policy 7S, Policy RNP1 informs that development will be permitted in the defined Cleat Hill/Mowsbury Special Character Area, provided it complies with all of the criteria listed*".
12. To conclude on this matter, I consider that the site lies within a Small Settlement and, therefore, Policy 6 is relevant to the determination of this appeal. However, even if I concluded that the site falls within the countryside, the RNP has been made and RNP1 identifies that housing may be acceptable in the Cleat Hill/Mowsbury area, within which the appeal site lies.
13. Therefore, I find that the appeal site represents an appropriate location for new housing development insofar as it falls within a Small Settlement and lies within the RNP1 Special Character Area boundary. Housing development may therefore be acceptable, in accordance with Policy 6 of the BBLP and Policy RNP1 of the RNP, subject to satisfying the specific wording of those policies, and I consider these matters below.

Character and Appearance

14. Policy 6 states that development in a Small Settlement will be supported where it "*contributes positively to the character of the settlement and is appropriate to the structure, form, character and size of the settlement as a whole*". Policy RNP1 states that development would be permitted where "*the siting, design, scale, density and orientation of the proposed development is compatible with the character of the surrounding area and does not involve back-land or tandem development*". The proposed dwellings would be sited within the substantial rear garden of The Ridings, and would not have any frontage onto Cleat Hill. As such, I am of the opinion that the proposal represents back-land development. This is a form of development which is specifically resisted by RNP1. While I acknowledge that the Council do not raise specific concern in this regard, RNP1 was formulated to control such ad hoc forms of development in this settlement. Nonetheless, it is necessary to consider how the development would relate to the settlement and its surroundings.
15. The upper part of Cleat Hill is generally characterised by large detached dwellings, of individual design, set within spacious gardens. While back-land development has occurred in the area, this appears to have been limited to the addition of a single dwelling. The scheme includes the subdivision of the plot to

¹ Policy 7S criterion v.

² Appeal Reference: 3311978

- provide three additional detached dwellings, with associated garages and areas of hardstanding.
16. This extent of development, in addition to the existing dwelling, would result in a quantum of additional back-land development, to the rear of Mowsbury House, that would be significantly greater than exists within the surrounding area. Furthermore, the dwellings would be aligned in a row which results in a greater spread of development across the whole width of the site. Development in the area has generally been restricted to single dwellings sited in tandem with the roadside dwelling. The dwellings would be sited close together in comparatively small plots, resulting in an arrangement which is more close-knit than the surrounding pattern of development. Therefore, the development would result in a more intensive form of back-land development than exists in the surrounding area. This would be significantly at odds with the established pattern and grain of development within this part of Cleat Hill.
 17. The extent of development across the site would erode the existing spaciousness of the plot, at this countryside edge location. This would result in a more sub-urban form of development on the edge of the countryside, which would be an unsympathetic transition between the dwellings in Cleat Hill and the surrounding countryside. I acknowledge that the dwellings would be set back from Cleat Hill and, as such, would not be prominent from this vantage point. However, a public right of way runs parallel to the site boundary and the extent of the proposals would be prominent from here. Furthermore, it is likely that there would be wider views across the countryside from Oldways Road, where this spread of development away from Cleat Hill may be apparent.
 18. For the above reasons, the development would have a harmful effect on the character and appearance of the area. Therefore, the development is contrary to policies of 28S, 29 and 30 of the BBLP, and Policies RNP1 and RNP5 of the RNP. Together, amongst other things, these seek to deliver development which is of high-quality design, which respects context and contributes positively to the character of the area. The development also conflicts with N1 and N3 of the Bedford Borough Council Residential Extensions, New Dwellings and Small-Infill Developments Design Guide which, amongst other things, requires the design of development to harmonise with their setting.
 19. The development would also be contrary to Policy 6 of the BBLP, which requires development in small settlements to contribute positively to the character of the settlement.

Highways

20. The dwellings would be accessed from Cleat Hill/Bedford Road via the existing point of access which serves The Ridings. The route of the existing driveway would be altered to create an access road to serve the proposed dwellings. The location of the new dwellings would mean that they would be positioned some considerable distance from the highway.
21. The submitted plans indicate that the individual driveways would be gated, and these would be positioned at the back of the proposed access road. The scheme does not provide for any dedicated turning facility or hammerhead along any part of the access road. The width of the access road appears to be insufficient to allow for any larger vehicle to effectively manoeuvre and exit

from the site in a forward gear, including for waste/recycling vehicles or fire appliances. The submission does not include any vehicle tracking information to demonstrate on site turning, nor has it evidenced any alternative waste collection arrangements to demonstrate satisfactory and convenient access in this regard. In the absence of this information, I cannot be satisfied that the access arrangements would be acceptable. Therefore, I agree with the Council that the access arrangements are unacceptable and could lead to vehicles having to reverse on to Cleat Hill/Bedford Road. This would be an unsafe manoeuvre which would lead to danger within the highway. In addition, the waste collection arrangements would likely lead to inconvenient and unacceptable movements for the occupiers of the dwellings.

22. For the above reasons, the development would have a harmful effect on highway safety. Therefore, the development is contrary to policies of 29 and 31 of the BBLP and guidance contained within the National Planning Policy Framework (the Framework). Together, amongst other things, these require that development should not have any significant adverse impact on access to the public highway, by ensuring that the development delivers suitable access arrangements. The development would also be contrary to policies RNP1 and RNP5 of the RNP. These require that developments adhere to relevant Design Guidance³. This guidance requires developments to make sufficient provision for sustainable waste management.

Protected Species

23. The consultation response from NatureSpace⁴ confirms that the site falls "*within a red impact zone for great crested newts*". It is understood that a red impact zone indicates the potential for highly suitable habitat for GCN's and, therefore, there is a high likelihood of a GCN presence in the area. NatureSpace advise that there are a number of ponds within close proximity of the site, while the site itself, may present suitable habitat in the form of grassland, shrubs, hedgerows and trees. They advise therefore that there is a reasonable likelihood that GCNs will be affected by the development.
24. The appeal site also includes a number of trees located both on and off the site. A number of trees appear to be proposed for removal, while the development would be in close proximity to an adjacent woodland. These landscape features have the potential to provide suitable habitat (including for foraging) for bats and birds.
25. The submission has not been supported by any ecological information to demonstrate the presence/absence of such species and habitat. Therefore, I cannot be certain how GCN's, bats or birds will be impacted by the development and, if they are affected, how such impacts could be mitigated or compensated for. Furthermore, as an alternative, I do not have any information to show that the alternative approach to demonstrate that the matters regarding GCN's have been addressed through the District Licensing Scheme.
26. Information to determine the presence/absence of protected species and/or their habitat, the extent to which they could be affected by the proposed

³ Contained in Appendix 3 of the RNP

⁴ Dated 13/09/23

development (where present), along with any mitigation which may be required, should be established before planning permission is granted. Given the available evidence, I concur that there is a reasonable likelihood that GCNs could be affected by the development, while site features indicate that there is a potential for other species and habitats to be present and affected. I do not have any information to conclude to the contrary. A condition requiring ecological enhancements would be insufficient to address this matter as the effects on protected species is unknown.

27. For the above reasons, there is insufficient information to determine the effect that the development would have on protected species and their habitats, with particular regard to GCNs, bats and birds. Therefore, the development is contrary to Policy 42S and 43 of the BBLP, and Policy RNP5 of the RNP. Together, amongst other things, these seek to prevent any adverse impact on locally important sites, species and habitats of principal importance. However, I find no particular conflict with Policy RNP1 of the RNP in this regard.

Trees

28. Policy 39 of the BBLP states that development should "*consider opportunities to retain trees of high amenity and environmental value taking into consideration both their individual merit and their contribution as part of a group or broader landscape feature*". Policy RNP1 states that development will be permitted where it "*does not involve the loss of or prejudice the retention of existing healthy mature trees or hedgerows on the site*", while RNP5 states that development should seek "*where possible, the retention of mature trees and hedgerows*".
29. A woodland is located to the rear of the site, with tree trunks positioned close to the site boundary and canopies appearing to overhang the site. In addition, there are a number of trees within the site of varying size, age and species. While some individual specimens are no more than ornamental, others are more significant and make a positive visual contribution to this edge of countryside location. The woodland is also a positive and important feature within the wider local landscape.
30. I do not have details of which trees would be required for removal to facilitate the development. However, it would appear from the plans and my observations on site that a number of trees would be removed. In addition, while the siting of the dwellings are set away from the rear boundary, I am unclear whether this offset would be clear of their respective canopies and root protection areas.
31. No information has been provided to categorise the species, age and value of the trees on and adjacent to the site. Nor do I have any information clearly showing which trees would need to be removed to facilitate the development, or any evidence to justify their removal. Such information would be essential to make an informed judgement on the effect that the development would have on trees.
32. For the above reasons, insufficient information has been provided to justify the effects of the development on existing trees. Therefore, the development would be contrary to Policy 39 of the BBLP, policies RNP1 and RNP5 of the RNP and guidance contained within the Framework. Together, amongst other things,

these seek to ensure that trees are retained and protected, and that the loss of important trees is justified.

Mowsbury Hill Scheduled Ancient Monument (the MHSAM)

33. The site is located in very close proximity to the MHSAM. The woodland to the rear of the site is contiguous with the woodland surrounding the MHSAM while there is a nearby ditch which provides connectivity between the sites.
34. The MHSAM is a slight univallate hillfort and medieval moated site of the late Bronze Age to early Iron Age. Historic England⁵ identify the significance of the MHSAM as lying *"in a combination of its surviving earthwork form and the buried archaeological remains, including a high potential for waterlogged deposits, that the site contains. The hillfort was deliberately located on the promontory location and was designed to have outward views as well as probably being visible as a local expression of the power and wealth of its occupiers. Consequently, the setting of the hillfort within the wider landscape makes an important contribution to its significance"*. I would concur with this assessment of significance. Given the very close proximity of the appeal site to the MHSAM, I consider that the site clearly falls within its setting.
35. A Heritage Impact Assessment has been provided in support of the scheme. This identifies the presence of the MHSAM and acknowledges that the site lies within its setting. However, the assessment of impact on the MHSAM appears to be brief with its conclusions not fully substantiated by supporting evidence.
36. I have identified that the appeal site clearly lies within the setting of the MHSAM. The proposals would bring built development closer to the boundaries of the MHSAM, eroding a largely undeveloped swathe of land between the woodland and the existing built development along Cleat Hill. The presence of additional buildings in this location has the potential to have a negative effect on the setting of the MHSAM.
37. Historic England comment that *"no assessment of the setting has been undertaken, nor analysis presented on how the setting contributes to the significance of the monument. No other evidence to support the conclusions (such as visualisations and/or wireframes) have been presented, and no consideration was given to the potential for presence of buried archaeological remains on site. Therefore, Historic England cannot accept the conclusions of the document."* Given the concerns that I have identified above I agree with the views of Historic England on this matter.
38. Furthermore, Historic England identify that the views of the Councils archaeologist are sought. The Archaeological Officer identifies that there is a *"reasonable potential for the site to contain below ground archaeological remains"* and that an archaeological evaluation is required to assess the likely impacts, should they remain.
39. Given the close proximity and connectivity of the site with the MHSAM and, from the information available, I consider that there is potential for archaeological remains to be present at the site. Indeed, archaeological remains are identified as contributing towards the significance of the MHSAM. The application has not been supported by any initial archaeological evaluation

⁵ In their consultation response dated 18 September 2023

and in the absence of which, I cannot conclude on the likely effects of the development on below ground non-designated heritage assets. Given the clear archaeological potential for the site, I do not consider that reserving this matter for condition to be an appropriate option at this stage.

40. For the above reasons, insufficient information has been provided to demonstrate that the development would not have a harmful effect on the setting of the MHSAM and archaeological remains. Therefore, the development is contrary to policy 41S of the BBLP, and RNP1 of the RNP, and guidance within the Framework. Together, amongst other things, these require development to preserve or enhance heritage assets or, where not possible, seek to minimise the harm. These also require applications to be supported by appropriate information for assessments on the effect of significance to be made.

Other Matters

41. I have had regard to the representations of third parties who have raised concerns on matters regarding the effect on living conditions of the occupiers of Mowsbury House, with regard to noise and disturbance; the living conditions of future occupants of The Ridings due to insufficient garden space; highway safety; and, flood risk.
42. I acknowledge that the scheme would result in an intensification of vehicles using the existing access from Cleat Hill, which lies adjacent to Mowsbury House. Nonetheless, Mowsbury House has an existing relationship with the highway where noise from vehicular movements would be apparent. In this context, I do not consider that the additional comings and goings arising from the proposed development would be so intensive as to give rise to unacceptable living conditions. With regard the level of garden space for The Ridings, while this would be eroded by the development, the remaining level proposed includes ample land to its front, rear and side, and I have no reason to believe that this level of garden would lead to unacceptable living conditions.
43. Cleat Hill has a 30mph speed limit and the point of access, which is on the outside of the bend, appears to have good visibility in both directions. The Highways Officer raises no concern with regard to the intensification of the access on to Cleat Hill and, given these existing arrangements, I have no reason to disagree with these findings. In addition, the Council have raised no concern with regard to flood risk. Given the evidence available and the relatively small scale of the development, again, I have no reason to disagree with the Councils conclusions on this matter.

Conclusions

44. For the above reasons the appeal is dismissed.

D Cleary

INSPECTOR