



Appeal Decision

Site visit made on 3 September 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2024

Appeal Ref: APP/P0240/W/24/3342838

Sand Pit, Great Lane, Clophill, Central Bedfordshire MK45 4BQ

- 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 R Lewis against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/02820/FULL.
 - The development proposed is erection of a self-build dwelling.
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Decision

1. The appeal is dismissed.

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. the appellant has had the opportunity to comment on the implications for the appeal in final comments and I have taken their comments into account. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Main Issues

3. The main issues are:
 - 1) whether the site is a suitable location for a new dwelling, having regard to the development plan and accessibility to services and facilities;
 - 2) the effect of the proposal on the character and appearance of the area;
 - 3) the effect of the development on protected species; and
 - 4) whether, in the event that harm is identified in respect of the above issues, there are other considerations which would indicate a decision otherwise than in accordance with the development plan.

Reasons

Location of development

4. The appeal site is located outside the settlement envelope of Clophill; however, it does immediately adjoin this village on the opposing side of the road. Therefore, policy SP7 of the Central Bedfordshire Local Plan 2021 (CBLP) applies and sets out that only particular types of development will be permitted. Insofar as it relates to new dwellings, this means rural exception schemes, dwellings for the essential needs of rural workers and the re-use and replacement of existing buildings. It further includes the redevelopment of previously developed land where the proposal does not cause the coalescence of settlements. Moreover, the policy additionally requires that there will be no detrimental impact on the built and/or natural environment and that the site is accessible to nearby services and facilities by sustainable modes of transport.
5. Access to the central part of the village where services and facilities are located is by way of a single-track lane with no footpath for almost its entire length to the junction with High Street. Even then, High Street itself only features a narrow footpath consistently to one side. I did observe one lighting column on Great Lane near the appeal site. However, most of the lane is unlit. I appreciate that this access situation is one that affects the current residents of Great Lane, but this amounts to a relatively small number of homes and is not a reason to introduce an additional dwelling into a location where future occupiers would need to use a narrow unlit lane to reach services and facilities on foot.
6. Clophill is identified as a larger village in the CBLP Settlement Hierarchy. Even so, this means it still only has a small number of services and facilities. These are mostly located at the opposing end of the village. Being mindful of the distance to these, the poor pedestrian connections and the position of the site outside of the settlement boundary, I conclude that the proposal would result in a reliance on the private motor vehicle. This would be contrary to CBLP policies HQ1 and SP7 and the Framework which promote development that is well connected to surrounding areas, providing safe, attractive and convenient routes that encourage travel by sustainable modes and meet the needs of all street users.
7. I have noted the reference to CBLP policy T2 which concerns highway safety matters and that the appellant has also queried this reference. As there were no objections expressed by the Council relating to highway safety, I assume this reference is to elements of policy T1 pertaining to sustainable locations. Nevertheless, in this case, I am satisfied that the concerns expressed by the Council in relation to the location of the development are adequately addressed by CBLP policies HQ1 and SP7.

Character and appearance

8. The site is located along one side of Great Lane at the end of the village. Great Lane is a semi-rural lane that slopes gently down towards the heart of the village. It is characterised by detached houses with a sylvan backdrop that quickly evolves into tree and hedge lined fields towards the north. The

eastern side of the lane, particularly around the appeal site, is set up on a well vegetated embankment.

9. The nearest neighbour, on the same side of the road, to the south, is set atop this steep bank and marks the end of the village. On the opposing side of the road only two or three further houses exist before giving way to the countryside beyond. This gives a gentle and pleasing impression on exit (or entrance) to the village core.
10. The site itself forms a small depression in this otherwise fairly steeply sloped embankment, no doubt due to its former use for minerals extraction. This is where the proposed dwelling would be located. It would result in additional built form at a point where the transition from a built-up area to the countryside would be sensitive. I accept that the proposed dwelling would be located in a hollowed-out area and as a result have minimal, if any, longer views in the countryside. However, its position in this sensitive location is still important in the local street scene context.
11. I appreciate that the design of the proposed dwelling is well articulated and of a low profile which is commensurate with the style and scale of nearby buildings. However, this does not overcome my concerns with regard to the existence of built form in this sensitive location. Whilst I accept that existing and new landscaping would soften this, it does not overcome my concerns.
12. I therefore conclude that the proposal would be harmful to the character and appearance of the area through the loss of the verdant setting in this rural transition area. It would therefore conflict with CBLP Policies EE5, HQ1 and SP7, the principles of the Central Bedfordshire Design Guide and the Framework. Read together these policies require development to relate well to the existing local surroundings and have regard to the key characteristics and sensitivities of the site and its setting.

Protected species

13. An Ecological Assessment (EA) was provided with the application. Although the EA did not identify any protected species at the time of the survey, there was evidence of badgers with two potential sett holes noted. Moderate potential for reptiles was identified due to the suitability of the habitat on the site. The EA recommended additional surveys in relation to these species to determine the likely impacts.
14. The appellant has suggested that such surveys could be secured through the use of planning conditions were permission to be granted. However, Circular 06/05 - Biodiversity and Geological Conservation states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. BS 42020:2013 identifies similar requirements and sets out certain exception tests that may allow for permission to be granted subject to a condition for further surveys. However, none of the exceptions apply in this instance.
15. Therefore, in the absence of detailed surveys pertaining to badgers and reptiles the proposal does not comply with CBLP Policies EE2 and EE3 and

the provisions of the Framework. These require development to avoid negative impacts on biodiversity and geodiversity.

Planning Balance

16. The proposed development is nominated as being self-build. The Self-Build and Custom Housebuilding Act 2015 together with the Self-build and Custom Housebuilding Regulations 2016 provides that authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom-build housing in the authority's area, in each base period. It requires local planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. Authorities must have regard to their register when carrying out their planning functions.
17. The Council's evidence suggests that it is presently meeting its requirements for self-build and custom-build plots. However, the most recent verifiable data is for the 2019-2020 base period. The previous over-provision of self-build and custom-build plots does suggest that this situation has been maintained however the evidence I have been provided with from both parties does not enable me to reach a definitive conclusion here.
18. CBLP Policy H6 sets out the approach to self-build and custom-build housing. As with all policies in the development plan it cannot be read in isolation and must be read in accordance with the CBLP Settlement Hierarchy which directs development towards higher tier settlements. There is no requirement for the Council to identify single plots in rural areas as the assessment of provision is made at borough level. Equally, no personal requirement for this dwelling to be located in or around Clophill has been identified as the appellant has not substantiated any local connection. This leads me to therefore limit the amount of weight that I can attribute to these matters.
19. I have considered the other appeals that have been highlighted by the appellant. Indeed, I recognise some similarities between this proposal and land to the north of Shefford Road, within the same Parish¹. However, it appears to me that the access arrangements to the Shefford Road site and its context were markedly different, having only a short stretch of road without footpath and featuring a place of refuge. Moreover, the site was within a paddock amongst other similar properties and consistent with the grain of surrounding development. I cannot draw such parallels here.
20. The reference to The Grove, Suckley Road² relating to a lack of self-build and custom-build housing does not seem to have direct comparison. The Council has a self-build and custom-build policy within its development plan as Policy H6 of the CBLP. Whilst I accept that this does not relate specifically to the appellant's circumstances, it is an indication of the Council's intent towards this type of housing and forms part of a relatively recently adopted plan.

¹ APP/P0240/W/20/3246825

² APP/J1860/W/22/3294214

21. Finally, the reference to Hepworth Road, Derbyshire³ does not have great relevance here as the points it highlights are not in dispute. Were permission to be granted, this, no doubt, would be subject to a mechanism to ensure the development was self-build or custom-build and this is not in dispute between the parties.
22. The site is a former mineral extraction site and the appellant considers that it is brownfield land. Annex 2 of the Framework does set out that former mineral extraction sites are greenfield land but only where provision for restoration has been made through development management procedures. In this case it remains indeterminate whether this form of managed restoration has occurred or not. Whilst the existence of concrete slabs remaining on the land and the age of the former workings does suggest that it has not been subject to managed restoration, there are no longer any buildings remaining and the site is otherwise well vegetated. Accordingly, and although the evidence does point towards there being no managed restoration, I am unable to draw a definitive conclusion as to whether the land is brownfield or greenfield based on the evidence before me. Were the land to be demonstrated as being brownfield, this would weigh in its favour. Even so, this matter would, nevertheless, not change my overall conclusions here as the scheme fails the policy SP7 tests on character and appearance and accessibility grounds.
23. I recognise the social and economic benefits of the provision of one dwelling pursuant to paragraph 8 of the Framework, particularly Framework advice that small sites can make an important contribution in meeting the housing requirement of the area, and that housing can assist in sustaining the vitality and viability of the settlement. This contribution would be modest in the context of the overall supply of housing land and the weight I can apply to this is limited.
24. At the time of its decision, the Council was able to demonstrate a five-year supply of deliverable housing land and this was not disputed by the appellant. However, I have been directed to a recent appeal decision⁴ by the appellant in their final comments. This suggests that the Council cannot demonstrate a five-year supply of housing land. If I were to accept that this is the case, the provisions of 11(d)ii of the Framework should be applied. This indicates that where the requisite supply of housing land cannot be demonstrated, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, assessed against the policies in the Framework taken as a whole. I shall therefore assume, for the purposes of this appeal, that paragraph 11(d)ii is engaged.
25. I have found that the proposed dwelling would be in an unsuitable location for a dwelling outside the settlement envelope and with a reliance on the private motor vehicle. Moreover, there would be harm to the character and appearance of the area together with insufficient information of the effects on protected species. These adverse impacts would significantly and demonstrably outweigh the social and economic benefits of delivering a

³ APP/G2435/W/18/3214451 & APP/G2435/Q/18/3214498

⁴ APP/P0240/W/23/3324532

single self-build or custom-build dwelling. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

Nick Bowden

INSPECTOR