



Appeal Decision

Site visit made on 21 November 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2025

Appeal Ref: APP/P0240/W/24/3340248

Land off Cobbitts Road, Maulden MK45 2ED

- 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 James Gill (J.C. Gill Developments Ltd) against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/03652/OUT.
 - The development proposed is erection of 5 detached dwellings and garages, with associated access road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved except for access. I have therefore regarded the details shown on the submitted block plan as illustrative, save for the proposed access arrangements.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The parties have been invited to comment on the revised Framework, and I have taken the comments received into account. The paragraph numbers in this decision refer to the latest version of the Framework.

Main Issues

4. The main issues are the effect of the proposal on (a) Local Green Space (LGS) and the character and appearance of the area, (b) biodiversity and protected species, and (c) archaeological remains.

Reasons

LGS, and character and appearance

5. The effect on character and appearance was not a matter in contention between the parties in a previous appeal at this site¹. However, there has since been a relevant change in circumstances in that the site has been formally designated as LGS in the Maulden Neighbourhood Plan 2020-2035 (Made January 2024) (NP). Policy M8 of the NP states that development proposals within the LGS will only be supported in very special circumstances.

¹ Appeal Decision Reference. APP/P0240/W/21/3287253, dated 6 December 2022

6. Appendix B of the NP sets out the importance of the site as LGS with reference to some of the criteria in paragraph 107 of the Framework. The site lies immediately adjacent to the village, is local in character, and is not an extensive tract of land. Whilst the site is in private ownership, it nonetheless has an open and undeveloped nature, which contributes to the rural setting of the village. On this basis, the NP states that the site holds local significance, particularly due to its prominence when approaching the village along local footpaths including the Greensand Ridge Walk. The lack of built form on the land adds to the rurality of Maulden, and thereby its sense of place. The site therefore meets the Framework's criteria for LGS. Moreover, the NP has been subject to examination, and there is no substantive evidence to indicate that Policy M8 of the NP should carry anything less than full weight in my decision.
7. Paragraph 108 of the Framework states that decisions for managing development within a LGS should be consistent with national policy for Green Belts, and this is reflected in the wording of Policy M8 of the NP. The Framework states that development in the Green Belt is inappropriate other than in a few exceptions, none of which are advanced in support of the appeal. Given the size and depth of the site, its largely open aspect, and the scale of the development proposed, the scheme does not have the character of limited infilling in a village; and none of the other exceptions listed in Paragraph 154 of the Framework apply to the proposal. Consequently, the proposal would be inappropriate development and should not be approved except in very special circumstances.
8. Although not all of the LGS would be developed, the construction of 5 dwellings and garages, along with associated hardstanding, boundary treatments, and domestic paraphernalia would extend over a large area of the LGS irrespective of the final design and layout. It would therefore have a deleterious, urbanising effect on the open character of the designated land. Due to the proximity of the site to the adjacent footpath and residential properties, the development would be unduly prominent in both public and private views, and it would detract from the rural landscape character at this location. The proposal would therefore fail to accord with the Framework and the National Design Guide (January 2021) insofar as they expect proposals to be well-designed and sympathetic to local character.
9. The Council disputes the housing land supply (HLS) conclusions of a recent appeal decision in Langford². Therefore, I cannot be certain as to whether or not the Council is able to demonstrate a five-year supply of deliverable housing sites, as is required by the Framework. Based on the information before me, the HLS is between 4.84 and 5.05 years. The proposed homes would clearly contribute to local housing needs, by increasing the residential output of the site, which would be accessible to the village and wider services and facilities by sustainable travel modes.
10. However, even if there is an undersupply in the HLS, the shortfall is modest and the contribution of the five dwellings to local housing supply would not be significant. Consequently, and whilst recognising that small sites can make an important contribution to housing delivery overall, the benefits of the scheme do not amount to the very special circumstances required to justify this inappropriate development in the LGS.

² Appeal decision reference APP/P0240/W/24/3341832, dated 11 November 2024

11. I conclude that the proposal would be inappropriate development on designated LGS, and the very special circumstances required to justify the development do not exist. It follows that there would be conflict with Policy M8 of the NP. There would also be harm caused to the character and appearance of the area, contrary to Policy M3 of the NP, and Policies HQ1 and EE5 of the Central Bedfordshire Local Plan 2015-2035 (July 2021) (LP) which, taken together, seek high quality proposals that respect, retain and enhance the character of the area and the local landscape.

Biodiversity and protected species

12. The appeal scheme is not subject to mandatory biodiversity net gain (BNG) due to the date on which the application was submitted. Nonetheless, Policy EE3 of the LP and Policy M6 of the NP expect developments to deliver biodiversity enhancements. The Council concedes that the BNG calculations provided with the appeal show that the site could achieve more than 10% BNG. Given that the details of measures to secure the BNG could be secured through a condition, the proposal would accord with development plan policies in respect of biodiversity enhancements.
13. The Reptile Survey concludes that the proposal would result in the loss of reptile habitat, which supports populations of common lizard, grass snake, and slow worm. The proposed mitigation includes the provision of a dedicated reptile habitat area within the application site. However, given the size of the site and the number of dwellings proposed, the reptile area would inevitably be sited close to residential properties and driveways, and there is a risk that the reptiles could be disturbed by human activity and domestic pets.
14. Whilst the reptiles could be protected from any such disturbance by reptile fencing, there is insufficient evidence to demonstrate that the fencing could be made fit for purpose by way of its height, dimensions, and materials, whilst also safeguarding local character. Consequently, there is a high degree of uncertainty as to whether the proposed mitigation measures for reptiles could be designed and delivered in a manner that would be acceptable in planning terms. It follows that a condition securing any such mitigation would fail to meet the tests for conditions set out in the Framework.
15. In the absence of substantive evidence of a robust and deliverable mitigation strategy for reptiles, the proposal would cause harm to biodiversity and protected species. It would therefore be contrary to Policies EE2 and EE3 of the LP, and Policy M6 of the NP insofar as they seek to conserve important habitats and species.

Archaeology

16. The Archaeological Desk Based Assessment (DBA) identifies that the village of Maulden is rich in Medieval and Post-Medieval heritage. The site itself lies within an area of low-moderate potential for all periods due, in part, to its undeveloped nature. However, if unknown archaeology does exist, the DBA finds it is likely to be well-preserved. The site therefore has the potential to contain archaeological remains of moderate significance.
17. The Framework requires that, where necessary, a field evaluation should be submitted for sites that have the potential to include heritage assets of archaeological potential. Moreover, Policy M3 of the NP is explicit in stating

that heritage statements for sites with archaeological potential should incorporate a field evaluation in addition to desk-based investigation.

18. The appellant has suggested that the trial trenching requested by the Council could be secured through a condition. However, in the absence of some form of appropriate investigatory field evaluation, it is not possible at this stage to assess the character, extent and condition of any remains that could exist, and therefore to identify the need for further post-decision evaluation and mitigation. Indeed, the appellant's own DBA indicates that a non-intrusive geophysical survey could further determine the presence or absence of archaeological remains so as to inform the need for further work. Without such evidence, it is not possible to form a definitive view on the likely level of harm that would be caused to the significance of the heritage asset and the appropriateness or otherwise of the suggested condition.
19. Consequently, I conclude the development would fail to safeguard archaeological remains. The development would therefore be contrary to Policy HE1 of the LP and Policy M3 of the NP which seek to safeguard non-designated heritage assets, including archaeology.

Other Matters

20. No harm has been identified in respect of the living conditions of neighbours, highways or parking issues. The absence of harm is a neutral matter that weighs neither for nor against the proposal.

Planning Balance and Conclusion

21. The proposal would be inappropriate development in the LGS and there are no very special circumstances before me to indicate the development would carry support from Policy M3 of the NP. There would also be harm to local character, protected species, and archaeological remains. The conflict I have found with development plan policies in relation to these matters brings the proposal into conflict with the development plan when read as a whole.
22. If I were to accept the HLS position outlined by the Inspector in the Langford appeal, paragraph 11d) of the Framework would be engaged. However, LGS is an area of particular importance identified in footnote 7 of the Framework, and the harm that would be caused to the LGS would provide a strong reason for refusing the development proposed under the provisions of paragraph 11d)i. Consequently, paragraph 11d)ii of the Framework would not be engaged, and the presumption in favour of sustainable development would not apply to the proposal.
23. The proposal conflicts with the development plan and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Catchside
INSPECTOR