
Appeal Decision

Site visit made on 17 December 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2025

Appeal Ref: APP/P0240/W/24/3345583

Manor Farm, Sewell Manor, Sewell Lane, Sewell LU6 1RP

- 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 Kevin Sherwood (Sherwood Architects Ltd) against the decision of Central Bedfordshire Council.
 - The application Ref is CB/21/04442/FULL.
 - The development is described as 'conversion of the former surgery building to a residential dwelling with outdoor garden space and vehicle parking area'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have taken the appeal site address from the application form, although a slightly different version was used on the appeal form. The location of the building in question is clearly identified on the plans. Internal works to enable use of the building as a dwelling have commenced but the building was unoccupied at the time of my site visit. As such, I am considering the development, in part, retrospectively.
3. The appeal documents included a Structural Inspection Report (structural report) by The Cox Clifford Partnership dated December 2023, relating to the threshing barn next to the appeal site. This evidence was not available to the Council when the application was determined, but since it is included and clearly referenced in the grounds of appeal, it was available to both the Council and any interested parties when making their appeal submissions. Having applied the principles set out in the Appeals Procedural Guide¹, I have taken the structural report into consideration and am satisfied that neither the Council nor any interested party would be prejudiced as a result of my having done so.

Main Issue

4. A Unilateral Undertaking (UU) dated 25 September 2024 was submitted while the appeal was under consideration. The Council has confirmed that the contents would, in their view, address the second reason for refusal in respect of the effect on the Chilterns Beechwoods Special Area of Conservation.
5. Against that background, the main issue is whether the development would provide suitable living conditions for future occupiers of the dwelling, with particular

¹ Procedural Guide: Planning appeals - England

reference to noise and disturbance and the quality and extent of the proposed private amenity space.

Reasons

Noise and Disturbance

6. The appeal site contains a single storey brick building with double pitched slate roof, among several buildings around the Grade II listed Sewell Manor. These also include a former stable building which has been converted to a dwelling and two pairs of recently built semi-detached dwellings, on the site of a former workshop. In addition, there is a substantial threshing barn of traditional, timber-framed construction, perpendicular to one end of the appeal building, abutting its end wall. Beyond the threshing barn is a single storey blockwork building.
7. On a plan attached to a Certificate of Lawful Use or Development (LDC) issued in March 2018, (drawing 6631-01) the blockwork building was described as a workshop and the threshing barn as storage associated with that use. While both buildings are currently vacant, they are identified on the same drawing as having been occupied by a car parts company, which the evidence underpinning the LDC described as a 'car dismantler'. Although the appellant suggests no such use has taken place for 10 years or more, the Council highlights evidence from a 2020 planning application of an ongoing vehicle repair/dismantling use at that time. The Council also alludes to a lawful B2 use of the workshop, with ancillary storage in the barn. By definition², Class B2 use includes industrial processes which could not be carried out in any residential area without detriment to the amenity of that area for reasons including noise.
8. The LDC describes the lawful use of the site at the date of issue as being 'B1, B2 & Sui Generis use classes'. Based on the copies provided, the Certificate as issued did not include a red edged plan clearly defining the extent of the land, or any planning unit(s) therein, even though such a plan is referred to. It also does not use the term 'mixed use'. However, it does explicitly refer to drawing 6631-01. While use classes for individual buildings are not specified on that drawing, there are a variety of different descriptors, such as 'workshop', 'storage', 'builders yard' and 'offices', with areas assigned to different occupiers clearly identified. Although the underlying evidence mentions successive tenants, there is no clear indication that their occupation of the buildings was ad hoc or interchangeable.
9. Based on their submissions, the parties to this appeal differ as to the interpretation of the lawful use(s) described in the LDC. Furthermore, the barn and workshop are outside the appeal site and neither party is in a position to control what future proposals may be made for alternative use of those particular buildings, or what arguments may be advanced as to whether a material change of use requiring planning permission is involved. While there is a brief reference in the Design and Access Statement to an intended residential use of the barn, there is no evidence before me to indicate whether this has been progressed or relevant permissions granted.
10. Against that background, based on the evidence before me, the terms of the LDC do not unambiguously confirm that planning permission would be required for re-occupation of the barn and workshop by a noisy B2 or sui generis use.

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

Consequently, there is little certainty that noise and disturbance from a resumed commercial use could be regulated by means of planning conditions or other mitigation measures.

11. The threshing barn is in visibly poor condition and the structural report describes it as being beyond its useful life or commercially viable repair. However, it also recognises that the barn is a heritage asset by virtue of its relationship with Sewell Manor. Furthermore, the Council's evidence highlights concern that a future, viable use of the building should be secured, while recognising that this falls outside the scope of the current proposal.
12. The evidence in the structural report focuses only on the barn and does not consider the workshop and its suitability for re-occupation. From external inspection, there are also indications that the workshop is in a state of some disrepair, but the extent and costs of remedial works has not been detailed. Furthermore, the structural report includes significant sums relating to insertion of a self-supporting first floor within the barn, which would not be incurred if no such addition was required. Therefore, while I recognise that the condition of the buildings casts significant doubt on the viability of a resumed commercial use, the evidence before me does not convincingly rule out that possibility.
13. The external walls of the barn directly adjoin the proposed dwelling and courtyard garden and there are openings in the rear elevation, directly into the proposed garden and the immediately adjacent land. Although the workshop is slightly further back, it is also in a position where a noise-generating use is likely to be intrusive. Both buildings are significantly closer to the appeal site than to the other new dwellings, which may explain the lack of similar concerns being raised when that application was considered. Reliance on the Council's powers to address statutory nuisance would not reliably address noise and disturbance which may not meet the relevant threshold for exercise of those powers, while still being at a level which would undermine quality of life for occupiers in such close proximity.
14. Taking these factors into consideration, I conclude that future occupiers of the dwelling could be significantly and detrimentally affected by noise associated with re-occupation of the adjacent buildings, which cannot be adequately mitigated within the scope of this appeal.

Private Amenity Space

15. The Central Bedfordshire Design Guide Supplementary Planning Document (the Design Guide) was adopted in 2023 and supports the Central Bedfordshire Local Plan 2015-2035, adopted in 2021. The Design Guide particularly references Policy HQ1 of the Local Plan, which is described as the overarching design policy. Although Policy HQ1 includes a range of criteria to ensure high quality development, it does not include any specific requirements for the provision of outdoor amenity space. However, it does include an expectation that all new development will have regard to the Design Guide.
16. The Design Guide includes guidance that every home should have the benefit of individual private or communal amenity space. Although it is recognised that such space can be provided in a variety of ways, and that garden size will vary according to property size, a minimum area of 50sqm is sought for 1 or 2 bed dwellings and the Design Guide also includes requirements designed to protect privacy.

17. In this case, the small garden proposed would be directly overlooked at close quarters by a window in the barn. Should the barn be re-occupied, the direct outlook from this window would seriously compromise the privacy of the courtyard garden. While the level of harm would be limited if the barn was used solely for storage, a more intrusive relationship could arise if that part of the barn was occupied.
18. The rear garden would also fall short of the minimum size prescribed in the Design Guide. The Council gives an area of 33 sqm and no alternative dimension has been provided. The Design Guide applies to all new development and there is no indication that changes of use of existing buildings are excluded. Nevertheless, the existing building and its relationship with the adjacent buildings are constraints on the achievable layout and the Design Guide does give some flexibility for garden size to vary according to property size.
19. The proposed garden would be capable of providing a small area for sitting out, with convenient access from the main living space. There would be space for storage of refuse bins out of sight, while still retaining a central area useable for garden furniture, drying washing or similar. Although the plans indicate an area dedicated to cycle parking and storage, neither the Highways Authority nor the Council has suggested that these facilities need to be secured by condition. In the absence of that requirement, there would be some flexibility for future occupiers to use that space as they chose.
20. That being the case, the layout would provide an adequate courtyard garden in reasonable proportion to the modest two bedroom accommodation proposed. On that basis, the limited size of the garden is not intrinsically harmful to living conditions, since it may suit the requirements of occupiers who do not desire more extensive garden facilities. However, the quality of the space would be harmfully compromised by the overlooking window.

Conclusion on Main Issue

21. For the reasons given above, based on the evidence before me, I conclude that the development would not provide suitable living conditions for future occupiers of the dwelling, with particular reference to noise and disturbance and the quality of the proposed private amenity space. In both cases, the harm relates to the risk of the adjacent workshop and barn being re-occupied for commercial purposes and the lack of adequate control over the use of the buildings or mitigation of noise and disturbance in those circumstances.
22. On that basis, the development conflicts with relevant requirements in Policy CC8 of the Local Plan, which requires amongst other things that, where development is likely to be exposed to potential unacceptable levels of pollution, including noise, measures can be implemented to minimise the impacts to an acceptable level without compromising quality of life for occupiers. It also conflicts with Policy HQ1 of the Local Plan, which requires amongst other things that regard is had to the provisions of the Design Guide, in this case specifically those relating to provision of private amenity space for new dwellings.

Other Considerations

23. The development would contribute one small dwelling to the supply of housing. It would also bring a currently vacant building back into use. However, taking account

of the site's location within a loose knit, somewhat dispersed rural hamlet, this does not attract the substantial positive weight which the Framework attaches to the value of using suitable brownfield land within settlements.

24. Although the appeal site is within the Green Belt, the Council concluded that re-use of the building as a dwelling would not be inappropriate development, based on the provisions now in paragraph 155h(iv) of the Framework regarding re-use of existing buildings. Having considered the evidence before me, including points raised by interested parties, I have no reason to reach a different conclusion. That being the case, it is not necessary for me to consider whether the site comprises Grey Belt land as defined in the revised Framework.
25. As well as being adjacent to Grade II Listed Sewell Manor, the appeal building is itself described as a heritage asset by the Council, along with the threshing barn. The site is also within the Sewell Conservation Area. The significance of the Listed Building includes its role as the historic Manor with associated farmstead, of which the building on the appeal site and the barn are clearly identifiable elements. The significance of the Conservation Area in turn includes the linear arrangement of historic farmsteads around Sewell Manor, forming a loose knit hamlet in a rural setting.
26. The application before me is for re-use of the building in its current form and the planning status of any alterations which have been carried out in the past falls outside the scope of this appeal. Subject to appropriate boundary treatment and landscaping, which could be secured by condition, the use of the building as a dwelling would not prevent a continued appreciation of its relationship with the Manor and barn. The remaining indications of the site's origins as part of the historic farmstead and the rural hamlet would be retained. The Council did not allege any harm to heritage assets and having considered the evidence before me, I likewise find that the setting and significance of the Listed Building, the heritage assets within its curtilage and the Conservation Area would be preserved.
27. However, the absence of harm to the Green Belt or heritage assets would not amount to a benefit carrying weight in favour of the proposal. Likewise, even if I were to agree with the Council that there would not be any harm to living conditions for neighbouring occupiers, or the wider character of the area, that is a neutral consideration.

Habitats Sites

28. The appeal site is within a 12.6km Zone of Influence around the Chilterns Beechwoods Special Area of Conservation (SAC) (in particular Ashridge Commons and Woods Site of Special Scientific Interest). The qualifying features of the SAC include beech forest and semi-natural dry grassland and scrubland, with habitat for stag beetle, and are vulnerable to harm through increased recreational disturbance arising from population growth. Consequently a mitigation strategy³ is in place to secure Strategic Access Management and Monitoring (SAMM), along with provision of Suitable Alternative Natural Greenspace (SANG), funded through developer contributions in relation to additional housing development.
29. The UU provides for payment of the required contributions and both the Council and Natural England have confirmed that this approach is in line with the adopted

³ Chilterns Beechwoods Special Area of Conservation (SAC) Mitigation Strategy adopted February 2023

mitigation strategy. Had I been minded to allow the appeal, it would have been necessary for me to complete an Appropriate Assessment to determine whether the appeal proposal would result in a significant effect, either alone or in combination with other development, on the integrity of the SAC. However, since I am dismissing the appeal for the reasons given below, it is not necessary to complete that assessment.

Planning Balance

30. The appellant has drawn my attention to a November 2024 appeal decision⁴, which concluded that the Council's housing land supply stood at 4.84 years, just below the five year requirement set out in the Framework. This post-dates the Council's housing land supply figure of 5.05 years as at 1 October 2024. The Council has not provided any further comment on the November 2024 appeal decision or any other update in the supply position, following the revisions to the Framework in December 2024. While I recognise that the November 2024 decision represents a snapshot in time, based on the evidence before that Inspector, it post-dates the Council's figure and indicates that there may be a small shortfall in the required housing land supply. On that basis, I have considered the proposal in light of the provisions of paragraph 11d of the Framework.
31. Mitigation of likely significant effects on Habitats Sites is proposed, so the evidence does not clearly establish that there is a strong reason for refusing the development on those grounds, albeit that is subject to completion of an appropriate assessment. In those circumstances, the test in paragraph 11dii should be applied.
32. For the reasons given above, based on the evidence before me, I have concluded that there would be conflict with the development plan. Paragraph 232 of the Framework makes clear that the weight attached to any conflict with the development plan does not hinge on its age, but on the degree of consistency with the Framework. As applied to the issues arising in this case, Policies CC8 and HQ1 are consistent with the Framework's approach to reducing and mitigating potential adverse impacts from noise on the occupiers of new development (Framework paragraph 198) and ensuring that developments provide a high standard of amenity for future users and that development which fails to reflect local design policies and design guides should be refused (paragraphs 135 and 139). Therefore, when considered against the relevant provisions of the Framework, the conflict with the development plan carries significant weight.
33. In the context of the Framework, including the recent revisions, the provision of any additional housing is valuable. Nevertheless, both the potential shortfall in housing land supply and the contribution made by this development are limited in scale and, even if considered collectively, the benefits of the development are inherently modest.
34. Set against that is the unsuitable living conditions for future occupiers, which carries significant weight. Therefore, based on the evidence before me, the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, even if there is a shortfall in housing land supply, the development does not benefit from the presumption in favour of sustainable development as defined in paragraph 11d of the Framework.

⁴ Appeal ref: APP/P0240/W/24/3341832, determined 11 November 2024

Conclusion

35. The proposal would conflict with the development plan as a whole and there are no other material considerations, including the provisions of the Framework, which indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should be dismissed.

Jane Smith

INSPECTOR