



Appeal Decision

Site visit made on 4 February 2025

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2025

Appeal Ref: APP/B0230/W/24/3350279

Land off Weybourne Drive, Luton, Beds LU2 7HB

- 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 James Gill (J C Gill Developments Ltd) against the decision of Luton Borough Council.
 - The application Ref is 24/00086/FUL.
 - The development proposed is the erection of 8 no. detached houses & all ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024 and I have had regard to these changes in my decision here. Where reference is made to paragraph numbers of the Framework in this decision, these are those in the most recent version.

Main Issue

3. The main issue is whether the proposed development would prevent the implementation of strategic highway infrastructure.

Reasons

4. The appeal site comprises a relatively long and narrow strip of land which is set at the end of Weybourne Drive. It presently comprises an open area of variously overgrown field including unmanaged grassland and brambles with a series of trees and ruderal vegetation making up the margins to the north and south.
5. The land is designated as safeguarded land under the sustainable transport strategy of policy LLP31 of the Luton Local Plan 2011-2031 (adopted 2017) (LLP). Criterion E identifies the land as strategic infrastructure which is needed to support proposed development, and the land is safeguarded for this purpose. This policy is supported by policy LLP15 which sets out that planning permission for residential development will be granted on sites not allocated for housing provided that it will not lead to a loss of uses for which there is a local need.
6. This site forms part of the East Luton Circular Road (ELCR). The development of the land for new dwellings would remove the opportunity to implement this piece of infrastructure. It would therefore conflict with policy LLP31 of the LLP in that this infrastructure could no longer be constructed. It would further conflict with policy

LLP15 insofar as it removes a use for which there is a local need. Whilst I accept this is a speculative need, this policy still applies.

7. In reaching this conclusion I have been mindful of the appellant's extracts from the LLP public examination and in particular the full commentary at paragraphs 208-212 of the Report on the Examination. This commentary suggests that the ELCR may not be taken forward in light of other strategic infrastructure taking place in the area along with heritage, biodiversity and landscape considerations. Moreover, policy LLP31 does contain an asterisk which indicates that the ELCR is not a formal transport proposal. The grant of planning permission for the northern Luton bypass running from the A6 to junction 11a of the M1 adds additional weight to this, particularly given the commentary at paragraph 209 of the Report on the Examination. Furthermore, there is an objection from Central Bedfordshire Council about the route of the ELCR which is predominantly within their jurisdiction. Accordingly, I do recognise that this piece of land may not continue to have long term merit for safeguarding purposes. Indeed, this is consistent with the Examining Inspectors view in 2017, that the safeguarding of this potential route within Luton is (or was) justified, for now.
8. However, given the potential significance of a piece of road infrastructure to the town as a whole, it is not my role in the context of this S78 appeal to dwell on this further. Such matters are best dealt with during the course of any Local Plan review process where the wider implications of removing this safeguarded land can be fully and properly considered. The safeguarded land could be used to access land beyond Weybourne Drive but the evidence and context of this appeal do not allow me to explore this. I do not dispute the evidence put forward by the appellant, but this appeal does not allow me to adequately take into account the multi-faceted implications of potentially removing a piece of future infrastructure which may have wider implications for the town and surrounding area as a whole.
9. I therefore conclude that the proposal would conflict with policies LLP15 and LLP31 of the LLP insofar as it would result in the loss of land for strategic infrastructure which is needed to support proposed development.

Other Matters

10. In reaching my conclusions, I have had regard to the comments of neighbours and third parties including the Chiltern Society. The existing footpath that leads through the site could be diverted to accommodate the proposed development and the plans indicate a route for this.

Planning Balance and Conclusion

11. I have considered comments relating to the age of the LLP and submissions that the Council cannot presently demonstrate a five year supply of deliverable housing sites such that paragraph 11 d) of the Framework should be engaged although the Council has not commented on this matter. Even if I were to regard this to be the case, paragraph 11 d) ii. states that permission should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole ... individually or in combination."
12. Paragraph 7 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, including the

provision of homes, commercial development and supporting infrastructure in a sustainable manner. The grant of planning permission for eight dwellings on this site would contribute to the provision of homes but it would do so at the wider expense of delivering homes, commercial development and supporting infrastructure. Moreover, paragraph 9 states that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

13. In this case, I am mindful of the benefits delivered through the provision of eight new dwellings and relevant economic, social and environmental objectives. I am further mindful that no material concerns, other than the conflicts with policies LLP15 and LLP31 of the LLP, have been identified. However, the loss of safeguarded land for strategic infrastructure must carry significant weight. Even if the necessity for this safeguarding is not borne out in the longer term, this is a matter to be fully explored through the Local Plan process.
14. 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. Therefore, for the reasons given above the appeal should be dismissed.

N Bowden

INSPECTOR