



Appeal Decision

Site visit made on 22 May 2025

by Tom Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2025

Appeal Ref: APP/K0235/W/25/3359825

Land at Duck End Lane, Wilstead MK45 3HP

- 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 N Drummond against the decision of Bedford Borough Council.
 - The application is ref. 24/01434/FUL.
 - The development proposed is the erection of a dwelling house.
-

Decision

1. The appeal is dismissed.

Preliminary matters

Statutory context

2. Various statutory duties apply to my determination of this appeal. The appeal site is close to several listed buildings, notably Duck End Barn and Duck End Farm House to the north forming part of a loose cluster of a small handful of properties there. I have therefore approached the appeal in the context of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
3. At present the appeal site is natural and overgrown. In the main it is densely populated with apparently self-seeded trees (many of which are semi or early mature). With that in mind, I am also bound by the general biodiversity duty in section 40 of the Natural Environment and Rural Communities Act 2006 as amended. More broadly, each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise.¹

Policy context

4. The development plan here includes policies of the Allocations and Designations Local Plan (adopted in 2013, the 'ADLP'), the Bedford Borough Local Plan 2030 (adopted in 2020), and the Wilshamstead Neighbourhood Development Plan covering the Parish in which the settlement of Wilstead falls (made as part of the development plan in January 2023, the 'WNP').
5. I have taken account of all relevant material considerations in determining the appeal. Those include the National Planning Policy Framework (published 7 February 2025, the 'NPPF') and the Planning Practice Guidance ('PPG'). There is nothing to indicate that any emerging plans are of significance as yet.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended, noting that section 38(5) is relevant in circumstances where there is conflict between development plan documents.

6. I have reached an independent view on the merits of the scheme. Nonetheless it is material that there was previously an unsuccessful appeal for a dwelling here (the '2023 appeal').² The Council has also brought to my attention a recent appeal decision elsewhere in the Borough.³ The latter sets out how the Council at that juncture were only able to demonstrate a forward supply of deliverable sites relative to housing needs of approximately 3.46 years' worth (as opposed to 5 years in line with NPPF paragraph 78).⁴ That remains their position. Consequently NPPF paragraph 11.d) applies.
7. Nevertheless neither the NPPF nor PPG displace the statutory basis for decision taking as referenced above. The weight attributable to any conflict with extant policies remains a matter of judgement, including with reference to NPPF paragraph 232. With reference to NPPF paragraph 14.a), which qualifies the operation of NPPF paragraph 11.d), the WNP was adopted less than 5 years ago. Nonetheless with reference to NPPF paragraph 14.b), paragraph 10.22 of the WNP sets out that it does not 'seek to allocate sites currently given that there is no requirement in the current Local Plan 2030 for it to do so'.

Main issues

8. The main issues are (i) the effect of the proposal on character and appearance, (ii) whether the appeal site is an appropriate location for the proposal, (iii) the effect of the proposal on historic integrity, and (iv) the implications of the proposal as regards ecology and biodiversity.

Reasons

Character and appearance

Relevant policies

9. In summary and amongst other things, various development plan policies set out how development should be designed so as to integrate appropriately with its surroundings. That is notably the case of Local Plan policies 28S, 29 and 30, 37 in respect of landscape character, and WNP policies BE2 and RC1. Local Plan policy 35S refers specifically to both seeking to protect, and provided for, net gain in green infrastructure. Local Plan policies 38, 39 and 40 address expectations in terms of landscaping and implications for trees and hedgerows.
10. As the site falls within the Forest of Marston Vale, Local Plan policy 36S also applies. That sets out how the Council will continue to support the creation of the Forest, including via proposals which deliver 30% tree cover across their respective site. The expectation that schemes contribute to the Forest is reiterated in WNP policy RC1. Referencing paragraphs 6 and 7 of this decision, in broad terms the foregoing policies are consistent with NPPF paragraphs 135, 136 and 187.b). Those paragraphs seek to ensure that development is suitably designed for its context and recognise the contribution of trees and woodland.

² Ref. APP/K0235/W/22/3300816.

³ Ref. APP/K0235/W/24/3352555.

⁴ Housing needs now established via the local housing needs methodology in NPPF paragraph 78 and the standard method in the PPG by virtue of the Local Plan being over 5 years old.

11. Also in summary, ADLP policy AD42 seeks to provide appropriate protection to local gaps. The purpose of local gaps is set out at ADLP paragraph 15.8, namely to preserve 'the distinction between leaving one settlement and arriving in another'. That supporting paragraph also sets out that 'this policy takes account of the principle that the essential feature of the gaps can be purely the absence of development and activity rather than necessarily its landscape quality'.
12. Theoretically the concept of local gaps sits comfortably with NPPF paragraph 187.b). That sets out how planning should contribute to and enhance the natural and local environment including by recognising the intrinsic character and beauty of the countryside. 'Recognising' in that context, in my view, connotes a degree of protection. That is regardless of whether a particular landscape, or element of it, possesses qualities that justify its designation as protected, or it being viewed as 'valued' within the context of NPPF paragraph 187.a).

The site and its surroundings

13. As set out in the appellant's Tree Survey Report, the site comprises 'a small former paddock/ woodland garden and a section of adjacent highway land, in all extending to approximately 0.25 hectares'. The planning application form gives the site area instead as 0.10ha. The proposal is to create access to the site via Bedford Road and to construct a substantial two-storey dwelling in something of a barn aesthetic consistent with prevailing typologies hereabouts.⁵
14. The appellant explains that the site is not within the local gap but instead in 'close proximity' to it. That is imprecise. The appeal site adjoins or abuts the south-easterly extent of the local gap here denoted by a double-headed arrow on ADLP inset map 39. As set out expressly in the 2023 Inspector's decision, policy AD42 applies to development in or adjoining a local gap (as is, and was, proposed).
15. The local gap here extends to the north-west only a relatively short distance across Bedford Road as far as the A6 near Goldfinch Gardens (part of the built form of Wixams). Its function is to ensure a sense of separation between Wilstead and Wixams. That is notwithstanding that on inset map 39 the local gap is also illustrated as within 'Housing Development Site -H14, E10'.
16. There are properties extending north-westwards towards Wixams beyond the appeal site, a ribbon of what appear early-to-mid twentieth century dwellings (nos. 67 to 89). At present the consolidated built form of Wilstead is, however, only readily apparent some distance away around the Square and Cawne Close. Appendix GC4 to the appellant's statement of case is an indicative masterplan related to a scheme for up to 149 dwellings between Duck End Lane and Cawne Close.⁶ If that scheme were to proceed, simplistically the built form of Wilstead would extend further towards Wixams.

The local gap

17. In my view the local gap here continues to provide an important function. Visually and experientially it creates a clear, legible break or sense of relief between Wixams and Wilstead. It results in the two seeming further apart than they are on

⁵ The appellant's Community Infrastructure Levy Form 1 indicating a gross internal area of 381 square metres.

⁶ Associated with application ref. 24/01566/MAO, as yet apparently undetermined.

plan and distinct from one another. For the most part, notably exempting highway infrastructure, the local gap is natural, verdant and hosts relatively dense lines and copses of trees. The WNP sets out that the gap includes community woodland, which I visited during my site visit. The qualities of the gap are, to all intents and purposes, the same as those of the appeal site. There is a clear affinity between the two and practically it is impossible to tell where one ends and the other begins.

18. Properties extending north-westwards to Wixams beyond the appeal site referenced above are to the south of Bedford Road as opposed to the appeal site to the north. They, and others as far east as Vicarage Farm, are separated from properties around the Square by an open field with a hedgerow flanking Bedford Road. They are also generously set back from the highway consistent with early-to-mid twentieth century patterns of development.
19. There is currently no meaningful visibility of the small cluster of dwellings or buildings around Duck End Farm House from Bedford Road, particularly if headed south-eastwards towards Wilstead, on account of the nature of the local gap and appeal site. There is similarly no clear intervisibility between the cluster of dwellings around Duck End Farm House with properties to the south of Bedford Road.
20. Albeit at this stage undetermined, the indicative masterplan in respect of the scheme for up to 149 dwellings counts against the appellant's case. That shows, along Duck End Lane and around its junction with Bedford Road, significant areas of natural and wooded space. That approach has clearly been advanced with the aim of mitigating the extent to which Wilstead would sprawl into its surroundings. Similarly, that a broad swathe of land is included within an allocation does not preclude a landscape-led approach to safeguarding important features.
21. In my view on account of their natural characteristics, and in no small part because of their worth visually and experientially, the local gap and appeal site contribute positively to the character and appearance of the area. The value of the gap has not been meaningfully diminished in the passage of time since the adoption of the ADLP, if anything its limited extent combined with pressures for development hereabouts bring into sharper focus its importance.

The effect of the proposal

22. The appellant's Tree Survey Report surveyed 22 individual trees and 6 groups of trees. Of those 9 individual trees would need to be removed to facilitate the development. Those are trees identified as T1, T2, T3, T4, T5, T6, T7, T8 and T17, all individually graded category 'C' with reference to British Standard 5837:2012, Trees in relation to design, demolition and construction ('BS 5837').⁷
23. Numerically that represents a reduction on site in tree numbers by some 40%. Consistent with earlier reasoning regarding the value of the gap and site to character and appearance, in my view cumulatively trees at the appeal site have a greater significance than their individually assessed arboricultural, landscape and cultural values might suggest.

⁷ Under BS 5837 summarised as 'trees of low quality'.

24. Moreover 3 groups of trees would also need to be removed, groups G3, G4 and G5. Those are all assessed as BS 5837 category 'B', albeit with the subcategorisation in the Tree Survey Report of (2).⁸ Part of a further group, G2 (category C), would also need to be removed to facilitate access. Crown lifting would also be undertaken to three further trees, T16 (category B(1)), T20 (category B(2)) and T21 (category C). There would be no real opportunity to include replacement planting on site; the appellant acknowledging that 'further trees may have to be sited elsewhere'. An established wooded area is not the same if its trees are transposed to another location.
25. In conjunction with the form of the dwelling itself and the layout of the plot, inherent in my reasoning above is that the proposal would fundamentally and detrimentally alter the existing character of the appeal site. That is setting aside any potential implications or pressure for further tree reduction in time, which may arise on safety or amenity grounds given how tightly hemmed in the proposed dwelling would be by remaining trees.⁹
26. Although the dwelling itself would emulate the barn form of a number of conversions and dwellings nearby,¹⁰ its construction would mean that the site no longer possesses clear affinity with the character of the local gap or contribution to character and appearance hereabouts. Visually the band of trees flanking the northern side of Bedford Road would appear to stop arbitrarily around the proposed access to the dwelling, as opposed to continuing to Duck End Lane (as was ever the case).
27. I therefore conclude that the proposal would conflict with the relevant provisions of ADLP policy AD42, of Local Plan policies 28S, 29, 30, 35S, 37, 38, 39 and 40, WNP policies BE2 and RC1, along with NPPF paragraphs 135 and 187.b). There would also be conflict with Local Plan policy 36S and WNP policy RC1 as, rather than supporting the creation of the Forest of Marston Vale, the scheme would detract from it (with any replacement planting inherently not as effective locationally or in terms of maturity initially as that which would be lost).

Location

28. To some extent intertwined with character and appearance, the Council's position is that the site is within the open countryside, and accordingly subject to Local Plan policy 7S 'Development in the countryside'. Local Plan policy 7S flows from the overarching spatial strategy and hierarchy, or approach to distributing development proportionately across the Borough in line with the scale and function of settlements, chiefly in policies 3S and 4S.
29. In broad terms Local Plan policy 7S sets a more restrictive approach to development in the open countryside to elsewhere, again congruent with NPPF paragraph 187.b). The Inspector who determined the 2023 appeal concluded that the scheme before them failed to comply with Local Plan policy 7S. Neither Duck End nor Wilstead are defined as small settlements at Local Plan page 36.

⁸ Under BS 5837:2012 summarised as 'trees of moderate quality'.

⁹ As shown on the Tree Protection Plan Proposed, Appendix 3B to the Tree Survey Report.

¹⁰ The appellant bringing to my attention appeals ref. APP/K0235/W/22/3302658, APP/K0235/W/21/3286097 and APP/K0235/W/22/3297359 in respect of the design of the proposal (notwithstanding those appeals involved the change of use or demolition and replacement of an agricultural building with a dwelling).

30. The appellant argues, however, that Duck End should instead be seen as a 'small settlement', Local Plan policy 6 according in-principle support to development within small settlements. In furtherance of that argument the appellant draws my attention to WNP paragraph 3.6, which is that 'Duck End, to the north east of the village centre, was once a separate hamlet and first appears in the village enclosure award'. The inference is that Duck End has some gravity, or that it has merged with Wilstead over time, or both.¹¹
31. As set out above, however, Duck End is little more than a loose collection of buildings distinct from the more consolidated built form of Wilstead and from the ribbon of properties to the south of Bedford Road nearby. That is even if it is appropriate to refer to Duck End as a concept in the present.
32. The site is outside the settlement boundaries of Wilstead and Wixams. WNP paragraph 3.6, moreover, features in the 'history and heritage' section of that document. That provides context to the evolution of Wilshamstead and settlement of Wilstead, rather than a policy basis for decision taking. Whilst enclosure had a profound effect on the nature of the English landscape and society, that did not extend as far as establishing current planning policy.
33. The appellant draws my attention to an appeal decision elsewhere which also addressed whether Local Plan policy 6 or 7S applied.¹² There are, however, marked differences between circumstances there are here. With reference to the Local Plan definition of small settlements at page 35, it was not in dispute there that the appeal site fell within an area occupied by more than 30 dwellings. Here there is no substantiation to the appellant's contention in that respect.
34. Moreover there the Ravensden Neighbourhood Plan 2030, made as part of the development plan in March 2023, apparently found that the appeal site there being encompassed by Local Plan policy 7S was 'unusual, having regard to its largely built-up character'. There is no comparable commentary in the WNP. Although evidently not being in an isolated location within the terms of NPPF paragraph 84, the scheme here clearly falls to be assessed relative to policy 7S.
35. Foreseeing that potential reasoning, the appellant argues that the scheme would comply with policy 7S, criterion v., which enables development 'if it is appropriate in the countryside in accordance with' a neighbourhood development plan. In that respect the appellant states that WNP policies 'H1 & RC1, unlike many other NP does not preclude development within the 'Open Countryside'(sic.), noting that the Parish Council did not raise an in principle objection to the scheme.
36. There is, however, no merit in that line of argument. WNP policy H1 sets out that 'infill development within the built form of the village (Settlement Policy Area) is supported provided that the principles of high-quality design are adhered to...'. As illustrated on the policies map at WNP page 47 the appeal site is outside of the settlement policy area. Policy H1 simply does not address development elsewhere.

¹¹ I note also that the Local Plan acknowledges that small settlements may have more than one area of definite built form, and that settlements qualifying as such may change during the life of the plan as a result of development.

¹² Ref. APP/K0235/W/22/3311978.

37. WNP policy RC1 is entitled 'Rural Character'. It seeks to ensure that proposal for development 'in the rural parts of the Parish should recognise and seek to protect and enhance the historic and natural landscape and local character of the Parish...'. As reasoned above, the scheme fails to do so. Policy RC1 neither sets out that it precludes or limits development in the open countryside, nor supports it. Within the terms of Local Plan policy 7S there is nothing in WNP policies H1 or RC1 to accord with.
38. I acknowledge that Local Plan policy 7S sets out that 'in addition [to criteria i. to v.] exceptionally development proposals will be supported on sites that are well-related to a defined Settlement Policy Area, Small Settlements or the built form of other settlements where it can be demonstrated that...'. Thereafter there follow criteria vi. to x., which define circumstances in which development proposals may be supported 'exceptionally'.
39. The appellant contends that if any one of Local Plan policy 7S criteria vi. to x. are met, then development may be acceptable. That may draw from the reasoning in paragraphs 8 and 9 of the 2023 Inspector's decision (albeit there is no evidence that arguments in these terms were put to that Inspector). That cannot be a correct reading of the policy, however, as criteria vi. to x. are each separated by the conjunction 'and'. The proposal would conflict with criterion ix.
40. Even if I am wrong in that, subsequent policy 7S criteria xi. to xiii. set out how 'all development in the countryside must...' achieve certain objectives (again each subsequent criteria joined by the conjunction 'and'). Criterion xi. is that all development in the countryside must 'recognise the intrinsic character and beauty of the countryside...' which the scheme would not. I therefore conclude that the appeal site is not an appropriate location for the development proposed in conflict with Local Plan policy 7S.

Heritage

41. As alluded to via WNP paragraph 3.6, the surroundings to the site have a lengthy and legible history notwithstanding modern interventions.¹³ The relevant list entry indicates that Duck End Farm House, although much altered and extended subsequently, traces its origins to the eighteenth century. That is apparent from chequered red and vitrified Flemish bond brickwork in particular. At some point in time the Farm House faced towards, and existed historically in conjunction with, other agricultural buildings including Duck End Barn. The list entry indicates the latter originated similarly around 1800, and was in all likelihood a threshing barn (now converted to a dwelling).
42. The onus falls principally on an applicant to substantiate their case.¹⁴ There is, however, very limited evidence before me as to the relationship between the appeal site and the listed buildings of Duck End Barn and Duck End Farm House. The appellant's Planning DAS & Heritage Statement provides nothing of substance, paragraph 5.20 simply stating that the listed buildings has or had, 'a relationship with the agricultural nature of the surrounding land'. In focussing exclusively on

¹³ The Council's archaeologist indicating based on Bedford Borough Historic Environment Record entry. 17053 that the site is located within the postulated extent of the deserted medieval settlement of Duck End.

¹⁴ Section 62(3) of the Town and Country Planning Act 1990 as amended.

intervisibility between the appeal site and listed buildings,¹⁵ the appellant fails to recognise that the setting of a listed building encompasses more than the visual dimension; defined in the NPPF as the 'surroundings in which a heritage asset is experienced'.

43. Nonetheless the acknowledged relationship between the listed buildings and surrounding land can be taken further. At present the appeal site is essentially natural. In all likelihood it was always that way. Whilst various buildings have been converted or erected to the north of the appeal site, the appeal site contributes to significance by authentically reflecting the past in the present.
44. Historically Bedford Road headed away from the site to the north-west, as opposed to northwards as at present to the roundabout junction with the A6 and Southern Cross. Both alterations to Bedford Road and the A6, along with other development including the ribbon of properties to the south of Bedford Road, have reduced the agricultural surroundings in which the listed buildings are experienced (the context in which they originated and developed). The appeal site and local gap are vestiges of an earlier era, contributing positively to significance in that respect.
45. I have reasoned that the proposal would adversely affect the existing qualities of the appeal site. That effect would be in part visual, given that the scheme would entail a reduction in trees along with the creation of a substantial dwelling along with access to it. In experiential or contextual terms the scheme would also dilute an appreciation of the rural context in which the listed buildings emerged and evolved.
46. Whilst, with reference to NPPF paragraph 212, the resultant harm would be towards the lowest end of the spectrum within the categorisation of less than substantial, NPPF paragraph 213 sets out how any harm to significance should require clear and convincing justification (a matter to which I return). Nevertheless insofar as the scheme would fail to preserve the setting of Duck End Barn and Duck End Farm House, the proposal conflicts with the clear expectations of statute.

Ecology and biodiversity

47. The appellant directs me to Appendix GC9 of their appeal statement in respect of biodiversity net gain ('BNG'). Appendix GC9 is an Ecology Appraisal, which demonstrates that consideration has been given to the site, its existing value to flora and fauna, and the implications of the scheme. Nevertheless the Ecology Appraisal sets out simply that 'the information within this report can be used as the baseline for any Biodiversity Net Gain (BNG) metrics, however, the calculations are not included within this report'.
48. BNG calculations, dated 4 October 2024, were provided raw in correspondence on behalf of the appellant of 30 January 2024. The headline result is that the scheme would entail an adverse effect on biodiversity on site, negative 94.90% as opposed to the statutory requirement for positive 10%. As every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain

¹⁵ Appellant's statement of case, paragraph 3.22.

objective is met, the appellant indicates that is potentially resolvable by way of an offsite BNG contribution.¹⁶ It may well be.¹⁷

49. That said the PPG also notes that BNG is 'not just a post-permission matter'.¹⁸ There is a difference between theory and reality. There are no details before me of the proposed measures to achieve the statutory requirement, whether those are onsite, offsite, via credits or some combination thereof. As such a bespoke condition in that respect would neither be precise nor necessarily reasonable with reference to NPPF paragraph 57. There is also no planning obligation before me despite the appellant's indication that may be an appropriate approach (notwithstanding concerns regarding the potential overlap of an offsite BNG contribution and one towards the Forest of Marston Vale).¹⁹
50. In respect of great crested newts specifically, the subject of the Council's sixth reason for refusal in their decision notice related to application ref. 24/01434/FUL, the Ecology Appraisal notes that the site is located within a 'red risk zone for great crested newts (see Figure 2) suggesting that the area contains highly suitable habitat and is one of the most important areas for great crested newts'. WNP paragraph 7.19 explains how the local gap here contains a newt reserve. Again there is divergence in that the appellant contends that this is resolvable via condition, whereas the Council is of the view that District Licensing must be obtained prior to the determination of the application.
51. In short, based on the evidence before me and the way in which it has been presented by the appellant, I cannot be satisfied that the proposal would be acceptable in terms of ecology and biodiversity. That said the appellant acknowledges the need to address BNG and great crested newts in some form or another. As such I have consciously not ascribed weight to unresolved implications for ecology and biodiversity for the purposes of reaching an overall conclusion.

Other matters

52. The proposal would entail certain benefits. Chief amongst them would be enabling the delivery of an additional home in an area with an acknowledged shortfall of housing relative to needs. In the context of present housing pressures nationally, arguably each new house is important socially. There would also be beneficial implications economically associated with the development of the dwelling, its occupation and maintenance. I note the intention is to use sustainable construction techniques and achieve high levels of energy efficiency.
53. Nevertheless in this instance the development proposed would reflect an incremental numerical contribution rather than in terms of appropriateness. There would be clear harm in terms of character and appearance, dovetailing with the location of the scheme being unacceptable. The proposal would also fail to preserve historic integrity. Neither the support in the NPPF nor development plan for new housing is unconditional.

¹⁶ Appellant statement of case, paragraph 3.24, PPG reference ID: 74-001-20240214.

¹⁷ Notwithstanding that paragraph 3.2 of the appellant's Energy and Sustainability Statement refers to the scheme as a self-build project, noting the exemption in this respect as described in PPG reference ID: 74-003-20240214.

¹⁸ Reference ID: 74-002-20240214.

¹⁹ Appellant statement of case, paragraph 3.26.

54. Even if the scheme were acceptable in respect of ecology and biodiversity and in all other respects, and even if the public benefits of the scheme were sufficient to provide clear and convincing justification relative to the the heritage harm in isolation, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits seen through the lens of NPPF paragraph 11.d)ii.
55. I have noted throughout this decision how, despite circumstances set out in paragraphs 6 and 7 above, that relevant development plan policies serve a valid current function and are essentially consistent with relevant elements of the NPPF. With that in mind, no other material considerations are sufficient to justify allowing the appeal.

Conclusion

56. Having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow

INSPECTOR