



Appeal Decisions

Site visit made on 10 August 2025

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2025

Appeal A Ref: APP/P0240/W/25/3367312

171 Castle Hill Road, Totternhoe, Dunstable, Bedfordshire LU6 1QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Shane Reilly against the decision of Central Bedfordshire Council.
 - The application Ref is CB/24/01659/OUT.
 - The development proposed is the adaptation of existing highways access point from Castle Hill Road and creation of new access road to serve proposed development of three new detached chalet style bungalows with garaging, parking and turning areas.
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Appeal B Ref: APP/P0240/W/25/3367314

171 Castle Hill Road, Totternhoe, Dunstable, Bedfordshire LU6 1QQ

- The appeal is made under section 78 of the Act against a refusal to grant permission in principle.
 - The appeal is made by Mr Shane Reilly against the decision of Central Bedfordshire Council.
 - The application Ref is CB/24/03467/PIP.
 - The development proposed is permission in principle: construction of 3 retirement bungalows.
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Decisions

1. Appeal A is allowed and outline planning permission is granted for the alteration to existing access from Castle Hill Road and creation of a new access road to serve proposed development of three new detached chalet bungalows with garaging, parking and turning areas with all matters reserved except access at 171 Castle Hill Road, Totternhoe, Dunstable, Bedfordshire LU6 1QQ in accordance with the terms of the application, Ref CB/24/01659/OUT, subject to the conditions in the attached schedule.
2. Appeal B is allowed and permission in principle is granted for the construction of 3 retirement bungalows at 171 Castle Hill Road, Totternhoe, Dunstable, Bedfordshire LU6 1QQ in accordance with the terms of the application, Ref CB/24/03467/PIP.

Preliminary Matters

3. Appeal A seeks outline planning permission, with all matters reserved except for access, while Appeal B seeks approval of permission in principle (PiP). Both appeals relate to the same site.
4. The description of development set out above for Appeal A reflects that specified on the planning application form. While the descriptions of development found on the decision notice and the appeal form differ slightly, they essentially relate to the same development. None of the versions specify the group of people who would occupy the dwellings proposed in Appeal A. The Design and Access Statement says that they would be for retired people, but the appellant's Statement of Case states that they would provide three self-build plots. That latter reflects the Council's determination, so I have determined Appeal A on this basis.

5. The plans submitted for Appeals A and B show that the same broad layout and type of development are proposed in each case. The key differences are who would occupy the homes if the appeals are allowed and that the design of each dwelling subject of Appeal A would be determined by the initial occupier.
6. The Planning Practice Guidance (PPG) advises that PiP is an alternative way of obtaining planning permission for housing-led development. The PiP consent route has two stages: the first stage (or PiP stage) establishes whether a site is suitable in-principle, and the second technical details consent (TDC) stage is when the detailed development proposals are assessed. Only when a related TDC is subsequently granted is planning permission granted, unlike when outline planning permission is granted, that is the planning permission. Appeal B relates to the first of the PiP stage, and my consideration of that is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent TDC application if PiP is granted.
7. During the appeal I wrote to the main parties raising my concerns about the validity of Appeal A as a result of the self-build plots not being secured as such and there being a consequential requirement to deliver Biodiversity Net Gain (BNG). I have taken both parties' comments into account.
8. Two signed and dated Unilateral Undertakings under section 106 of the Act have been submitted in respect of Appeal A (UU SB and UU SAC). These seek to secure a mitigation payment for the proposal's adverse ecological impacts on the Chiltern Beechwoods Special Area of Conservation (SAC) and the provision of three self-build homes. A signed and dated Unilateral Undertaking (UU PiP) also under s106 of the Act has also been submitted in connection with Appeal B. The UU PiP seeks to secure a mitigation payment towards the SAC. I shall consider the UU SB and UU SAC, and UU PiP in reaching my decisions.

Main Issues

9. The main issues in respect of Appeal A are: (a) whether the proposal development would be inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework); (b) whether the proposal is required to deliver BNG, and if so, would the proposal achieve that; and (c) the effect of the proposal on the SAC.
10. The main issue for Appeal B is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, but I shall also have regard to the proposal's effect on the SAC.
11. While each appeal has its own main issues, I shall consider the merits of both proposals together, owing to the commonality of the development proposed and the content of national and local planning policy.

Reasons

Whether inappropriate development

12. The appeal site lies in an area washed over by the South Bedfordshire Green Belt. Here, Policy SP4 of the Central Bedfordshire Local Plan 2015 – 2035 (LP) states that within the Green Belt there is a general presumption against inappropriate development. Development proposals within the Green Belt will be assessed in accordance with government guidance contained in the NPPF and PPG.
13. Totternhoe is identified as a 'large village' in the LP. However, because it is

washed over by the Green Belt, there is no defined settlement envelope. This means that it is a matter of judgement as to whether the appeal site lies within Totternhoe. This part of the village is characterised by ribbon development with 'pockets' of development that are more built up. The appeal site lies behind the continuous frontage of residential properties that line the southern side of Castle Hill Road. The site is also close to the denser grain of development on Brownlow Rise and Castle Close to the north and the finger development of Bridgewater Close and the residential park homes of Poplar Farm Park and Brookfield Park. Therefore, I consider the appeal site to be within the village of Totternhoe.

14. While the Framework does not define the terms 'limited' and 'infilling', the quantum of development proposed in Appeals A and B would be limited. Further, applying the reasonable approach to how infilling should be considered as set out in LP paragraph 8.6.3, the bulk of the appeal site lies behind 171 and 173 Castle Hill Road, and both schemes would use an existing driveway to facilitate access to the proposed dwellings. As such, that driveway, whilst small, is not a gap in the built-up frontage of Castle Hill Road as it already facilitates access to No 171. Further, the western boundary of the appeal site is not built-up owing to the looser grain of development that exists behind the ribbon development along Castle Hill Road. Therefore, despite the residential development along Bridgewater Close, the appeal site is not part of a built-up frontage. Hence, despite the type and amount of development proposed, its location would mean that the proposals would not accord with Framework paragraph 154 e).
15. The appellant claims the current lawful use of the site to be a residential garden / domestic gardens. I have no reason to disagree. Given this and as the appeal site lies within the village, the land is not previously developed land according to the Framework definition. While there is no definition of what a 'built-up area' is, I consider that to include settlements such as villages, towns and cities, albeit that is not an exhaustive list. The proposal would not accord with Framework paragraph 154 g) regardless of the effect of the proposals on the openness of the Green Belt due to its location and land use.
16. Framework paragraph 155 explains that the development of homes in the Green Belt should also not be regarded as inappropriate where all the relevant criteria apply. There is no dispute that the proposal would utilise grey belt land, nor is there a dispute about purpose e). I agree. In terms of purpose c), the proposal would not assist in safeguarding the countryside from encroachment due to the additional built form (dwellings and infrastructure) that is proposed, which would extend the ribbon development on Castle Hill Road southwards and westwards from the development on Bridgewater Close. The combination of both would see development encroach onto land with an open rural character. However, when the purposes are taken together, the proposal would not fundamentally undermine them, as the encroachment caused would be relatively well contained by existing field boundaries that are lined by established vegetation.
17. The Council accepts that it is currently unable to demonstrate a five-year supply of deliverable housing sites following a material change in circumstances for two sites in the Council's trajectory that the Council now accepts should be removed. The Council says that it can demonstrate a supply of 4.85 years, which means, having regard to footnote 56 of the Framework, there is a demonstrable unmet need for the type of development proposed in Appeals A and B.

18. The appeal site would be in a sustainable location, having regard to Framework paragraphs 110 and 115, as, despite its rural location, future occupiers would be able to access bus services on Castle Hill Road using footpaths. Those services would provide an alternative to using private vehicles to access a range of facilities and services for future occupiers' day-to-day needs.
19. Framework paragraph 155 d) is not relevant to either proposal, as they are not major development. This, together with my findings in respect of the other criteria in this paragraph means that the proposals are not inappropriate development in the Green Belt. Therefore, it is not necessary for me to consider the proposals effect on the openness of the Green Belt, and accordingly, I conclude the development proposed in Appeals A and B would not be inappropriate development in the Green Belt, having regard to the development plan and the Framework. As such, the proposals would comply with LP Policy SP4, Policy T1 of the Totternhoe Neighbourhood Plan (NP), and Framework paragraph 155.

BNG – Appeal A

20. Under Schedule 7A of the Act, applications for planning permission are required to show a 10% BNG. LP Policy EE2 and NP Policy T8 require development proposals to provide a net gain in biodiversity.
21. However, dwellings that are self-build or custom-build houses as defined by Section 1(A1) of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (the 2015 Act) are exempt from the mandatory 10% BNG. Self-build and custom-build dwellings are both where an individual, an association of individuals, or persons working with or for individuals or associations of individuals build or complete houses to be occupied as homes by those individuals. The initial owner of the home must have primary input into its final design and layout, and developments must consist of no more than nine dwellings and be on a site that has an area no larger than 0.5 hectares.
22. It is necessary to secure the proposed homes as custom/self-build housing firstly because it would reflect what has been applied for, but also because it enables the demand for this type of housing to be met, and because this type of housing is an exemption to the mandatory provision of 10% BNG that must be secured at outline stage if it is required rather than through a later reserved matters application¹.
23. The appellant says that the provision of custom/self-build housing can be secured through a planning condition and cites the Compton Nursery appeal decision in favour of that approach. However, such a condition would not satisfy the tests of 'enforceable' and 'precise' as it would not require compliance in accordance with the legal definition of custom/self-build homes as found in section 1(A1) of the 2015 Act. My view is broadly consistent with the findings in the appeal decisions at 59 Manor Road and land adjoining the Causeway. Therefore, I conclude that the most appropriate way of securing the necessary certainty is through UU SB.
24. UU SB would secure the provision as it defines the dwellings to be provided to the legislative definition. Hence, the homes could not be acquired from a person who builds homes wholly or mainly to plans or specifications decided or offered by that person. The outline nature of the proposal would also enable the initial homeowner to have primary input into its final design and layout and secure reserved matters approval for it if I were minded to allow the appeal. Hence, UU SB satisfies the

¹ PPG Paragraph: 003 Reference ID: 74-003-20240214

three tests found in Framework paragraph 58 and is material to my decision. I conclude, therefore, that there is a valid exemption to the otherwise mandatory 10% BNG, and no conflict would arise with LP Policy EE2, NP Policy T8, Section 15 of the Framework, and Schedule 7A of the Act.

SAC

Appeal A

25. The SAC is made up of nine separate sites, and the appeal site lies within the 12.6km Zone of Influence of the SAC. The qualifying features of SAC are beech forests (beech forests on neutral to rich soils), semi-natural dry grasslands and scrubland facies on calcareous substrates (dry grasslands and scrublands on chalk or limestone), and the stag beetle. The SAC is the most extensive area of native beech woodland in England, and the stag beetle is the UK's largest terrestrial beetle. The Ashridge Commons and Woods Site of Special Scientific Interest (SSSI) is part of the SAC.
26. Although the proposal is not directly connected with or necessary for the nature consideration of the SAC, the cumulative effects of housing growth will have a likely significant effect due to the recreational pressures on the SSSI due to its public accessibility, and that pressure can impact the site's designated features and thus its integrity. The proposal would contribute to an in-combination adverse effect on the SAC's qualifying features, owing to its proximity to the SAC because of the likely extra recreational pressures arising from future occupants of the proposed dwellings.
27. Mitigation and avoidance measures are therefore necessary. Among others, these seek to deflect visitors away from the SSSI, to reduce recreational impacts, and to better manage visitor distribution and numbers within the SAC. To achieve the measures, contributions towards the Strategic Access Management and Monitoring (SAMM) and Strategic Alternative Natural Greenspace are necessary. The UU SAC secures the contributions that satisfy the tests for doing so in Framework paragraph 58.
28. As such, the effect of the additional recreational disturbance arising from the proposal would be appropriately mitigated to ensure that the proposal will not adversely affect the integrity of the SAC. The proposal would therefore accord with LP Policy EE3 and section 15 of the Framework, as no adverse effect would be created with the mitigation secured.

Appeal B

29. The PPG² clearly explains that PiP must not be granted for development which is habitats development. It sets out that for sites where development is likely to have a significant effect on a qualifying European site without any mitigating measures in place, the competent authority should ensure an appropriate assessment has been undertaken before consideration of the grant of permission in principle. If the competent authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affect the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the PiP process, it can grant PiP. While the effect on the SAC was not specifically put forward by the Council as a reason for the refusal, I am the competent authority, and given the duty placed upon me, I sought

² Paragraph: 005 Reference ID: 58-005-20190315

the parties' comments and have had regard to them in reaching my decision.

30. The reasons set out above in relation to this main issue and Appeal A also apply to the proposal subject of Appeal B; hence, it is 'habitats development' having regard to Article 5B(5) of The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (as amended). Habitats development means development which is likely to have a significant effect on a qualifying European site, as defined by regulation 8 of the Conservation of Habitats and Species Regulations 2017 (the Regulations), either alone or in combination with other plans or projects. Therefore, despite the approach set out in the Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest, an appropriate assessment is required.
31. I cannot be satisfied that there would not be any significant adverse effects on the integrity of the SAC. The PPG³ also explains that planning obligations cannot be secured at the PiP, yet they may be needed at the TDC stage. However, adopting this approach would mean that I would not have the necessary certainty in carrying out the appropriate assessment that an adverse effect on the SAC's integrity would be avoided, nor am I sure that the mitigation would be forthcoming. The appellant has therefore submitted the UU PiP, given that there is no legal reason why an obligation cannot be entered into at any time to provide certainty that the necessary mitigation will be forthcoming at the TDC stage.
32. The UU PiP would secure the appropriate mitigation for the proposal's effect on the SAC, and it satisfies the tests set out in Framework paragraph 58. Thus, the effect of the additional recreational disturbance arising from the proposal would be appropriately mitigated to ensure that the proposal would not adversely affect the integrity of the SAC. On this basis, the proposal would accord with LP Policy EE3 and section 15 of the Framework, as no adverse effect would be created with the mitigation secured.

Other Matters

33. I note the concerns about the proposal's effect on the character and appearance of the area, but the appeal site provides opportunity for suitably designed schemes to come forward whilst respecting the rural character that abuts the site. Furthermore, the likely layout could be broadly consistent with local developments that project southwards from Castle Hill Road.
34. The design of the proposed dwellings is not a matter before me, but detailed designs could ensure that neighbouring and future occupiers' privacy could be maintained. I am also content, given the residential uses adjoining the site, that a comparable use would not give rise to unacceptable noise and light pollution, bearing in mind the likely number of vehicle movements.
35. I understand the concerns regarding visibility at the junction of the proposed access and Castle Hill Road, but subject to the imposition of conditions on Appeal A, adequate visibility can be secured. Those same provisions could be secured at TDC for Appeal B. Revisions made to both schemes show that the dwellings proposed subject of Appeals A and B could be accessed using an access wide enough for an initial section to allow for two-way movements off the highway. Furthermore, given the outline nature of Appeal A and the need for TDC approval for Appeal B, I consider the site could accommodate each scheme's dwellings with

³ PPG Paragraph: 022 Reference ID: 58-022-20180615

adequate parking provision and suitable turning space.

36. I have no reason to disagree with the Council's assessment that the Council's District Licence for Great Crested Newts would secure the favourable conservation status of this species. Planning conditions could be imposed, including at the TDC stage, to secure integrated bat and bird bricks, which would be alongside the retention of existing vegetation around the site. Other ecological measures could potentially be included as part of a reserved matters scheme or at the TDC stage.
37. Despite concerns about the proposed type of housing, NP Policy T2 supports self- and custom-build housing like that proposed here. This policy also supports the delivery of smaller one-, two-, and three-bedroom homes for specific parts of the community. The proposals would be able to achieve all these objectives given the indicative detail submitted and as self-and custom-build housing in Appeal A has been secured. Furthermore, the Framework establishes that the provision of self-and custom-build homes should be viewed in the context of delivering against the minimum number of homes needed rather than a maximum.

Conditions – Appeal A

38. Along with the standard conditions when granting outline planning permission, I have imposed a condition to secure full details of access/junction arrangement in the interests of highway safety and a condition regarding the approved plans. Conditions are also necessary to help inform the reserved matters submission so that satisfactory details are secured for parking, turning, and refuse receptacles and collection, in the interests of highway safety, and so that a written archaeological scheme of investigation is secured, in the interests of archaeology. A condition is necessary to secure biodiversity enhancements through new wildlife features. To minimise construction impacts, conditions are necessary so that the development accords with the Council's codes of practice.
39. Conditions requiring electric vehicle charge points and a scheme of fire safety measures are not necessary, as they are addressed through building regulations.

Conclusions

40. I conclude that the proposal subject of Appeal A accords with the development plan, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, I conclude that Appeal A should be allowed.
41. In respect of Appeal B, having considered the matters of location, the proposed land use and the amount of development, I have not identified conflict with the development plan, and having considered all other material considerations, including the Framework, I conclude that Appeal B should be allowed. It is not possible for conditions to be attached to a grant of PiP. The default duration for permission is three years. Any other matters can be addressed at the TDC stage.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS – APPEAL A

- 1) Details of the appearance, landscaping, layout, and scale, "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development shall be carried out in accordance with the following approved drawing insofar as it relates to site access: 22/453/01 REV E.
- 4) Any reserved matters application shall include full details of the access/junction arrangements shown on drawing number 22/453/01 REV E. No dwelling approved under any subsequent reserved matters application shall be occupied until such a time as the approved works, including the provision of visibility splays of 2.4m x 43.0m to the west and 2.4m x 39.0m to the east, clear of obstruction, have been implemented in accordance with the approved details.
- 5) Any subsequent reserved matters application shall include the following:
 - vehicle parking and garaging in accordance with the Council's standards applicable at the time of submission;
 - cycle parking and storage in accordance with the Council's standards applicable at the time of submission;
 - a refuse collection point located at the site frontage outside of the public highway and any visibility splays;
 - a vehicular turning area within the curtilage of all premises taking access directly from the public highway; and
 - a scheme for the provision of waste receptacles for each dwelling.
- 6) Any subsequent reserved matters application shall include an Ecological Enhancement Strategy (EES) for the creation of new wildlife features such as hibernacula, the inclusion of integrated bird/bat and bee boxes in buildings/structures and hedgehog holes in fences. The scheme, its aftercare and maintenance, shall be carried out in accordance with approved details.
- 7) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors' or any subsequent document that replaces it.
- 8) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Environmental Code of Practice' or any subsequent document that replaces it.
- 9) PART A: No development shall take place until an archaeological Written Scheme of Investigation (WSI). The WSI shall contain the following components:
 1. a method statement for the investigation of any archaeological remains that will be affected by the development; and
 2. an outline strategy for post-excavation assessment, analysis, archive preparation and publication, including details of the timetable for each stage of the post-excavation works.

The development hereby permitted shall be carried out in accordance with the approved WSI.

Part B: This condition shall only be fully discharged when:

1. all elements of the archaeological fieldwork have been undertaken and the date of completion has been confirmed in writing by the Local Planning Authority.
2. the post-excavation assessment, analysis and final archaeological report has been submitted to and approved in writing by the Local Planning Authority. This shall be done within 12 months of the date of completion of the archaeological fieldwork unless otherwise agreed in advance in writing by the Local Planning Authority.
3. the preparation of the site archives (including the production of an archive report) for deposition at stores approved by the Local Planning Authority has been undertaken and confirmed in writing by the Local Planning Authority. For the digital archive this will include confirmation of the intention to deposit with a CoreTrustSeal certified repository dedicated to storing archaeological archives.
4. the publication report text has been prepared for submission to a recognised archaeological journal, or an approved final archaeological report is submitted for inclusion in the Historic Environment Record, and this has been confirmed in writing by the Local Planning Authority.

Unless otherwise agreed in writing by the Local Planning Authority, items 3, and 4 of Part B of this condition shall be completed within 2 years of the archaeological fieldwork date of completion.

END OF SCHEDULE