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# Appeal Decision

Site visit made on 14 August 2018

**by Chris Forrett BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 November 2018**

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**Appeal Ref: APP/P0240/W/18/3193533**

**13 Orchard Close, Upper Gravenhurst, Bedford, Bedfordshire MK45 4JF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by 2MC Homes against the decision of Central Bedfordshire Council.
  - The application Ref CB/2017/01360/OUT, dated 17 March 2017, was refused by notice dated 13 July 2017.
  - The development proposed is the demolition of existing bungalow and removal of equestrian facility and erection of 46 dwelling houses, 1 building with 6 self-contained flats, retail unit and associate parking and roads.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The appeal proposal has been submitted in outline with all matters reserved for future approval. Notwithstanding that, indicative site layout plans have also been submitted which show a way in which the site could be developed. However, given that all matters are reserved for future approval, I have only treated these as possible ways of developing the site.
3. Since the determination of the appeal application, the National Planning Policy Framework published in 2012 has been replaced, with the new version being published in July 2018 (the 2018 Framework). I have invited further representations from the Council and the Appellant on this specific matter.
4. Paragraph 212 of the 2018 Framework outlines that the policies contained within it are material considerations which should be taken into account in dealing with applications from the day of its publication. I have therefore determined the appeal with this in mind.

## Main Issues

5. The main issues are the effect of the development on the character and appearance of the area, the effect of the development on highway safety, and infrastructure provision.

## Reasons

### *Character and appearance*

6. The appeal site is located at the southern end of Orchard Close and from the submitted plans contained a single bungalow within a large curtilage. Planning

permission has been granted by the Council for the erection of 10 dwellings on part of the appeal site<sup>1</sup>. At my site visit I saw that the bungalow had been demolished and the majority of the site had been cleared of vegetation, with the exception of a couple of trees and the boundary hedgerows/trees. To the west of the appeal site lies a site which has recently been granted planning permission for up to 24 dwellings<sup>2</sup> to the rear of properties on Barton Road.

7. The Central Bedfordshire Core Strategy and Development Management Policies (2009) (CSDMP) sets out a hierarchy for development across the area with the majority of new development being directed to the major and minor services centres within defined settlement envelopes.
8. From the evidence before me, Upper Gravenhurst is designated as a small village in the CSDMP. Furthermore, the appeal site is located partially within the defined settlement envelope for Upper Gravenhurst and partially on land designated as open countryside.
9. That said, as acknowledged by the Council in their officers report, the site has a relationship with the existing built form (and the currently undeveloped site to the rear of Barton Road). Indeed, from my site visit I saw that the appeal site has well defined boundaries around the edge of the site with no distinguishable features which set out where the settlement envelope is located on the ground.
10. Policy DM4 of the CSDMP principally deals with development within settlement envelopes. However, I acknowledge that it is also titled to refer to land beyond settlement envelopes. Notwithstanding that, the only reference within the policy to land beyond the settlement envelope relates to *"where no land is available within the settlement, a site adjacent to the settlement may be granted planning permission. Such development should make the best use of available land and lead to more sustainable communities"*.
11. I am also conscious of the supporting text to Policy DM4, which sets out that the settlement envelopes have been defined to enable the clear, unambiguous and consistent application of policies in the control of development. It also states that they are not an attempt to define the extent of a particular town or village community and also seek to prevent coalescence between settlements.
12. The parts of the appeal site which do not fall within the scope of the planning permission which has already been granted are undeveloped and make a positive contribution to the semi-rural character of the area. However, given the recently permitted development adjacent to the site, and the permission relating to part of the appeal site itself, its positive contribution to the rural area is somewhat reduced. To my mind, these are significant factors which, in combination with the opportunity to provide further screening along the south-eastern boundary to the site, leads me to the view that the development would not have a significant impact on the character and appearance of the area.
13. It is also clear that the development of this site would not be any worse than any other greenfield development, despite the land sloping downwards to the south-east. Furthermore, the development of the site would not result in the coalescence between settlements.

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<sup>1</sup> Reference CB/17/00106/OUT dated 3 May 2017

<sup>2</sup> Reference CB/15/04081/OUT dated 17 January 2017

14. To my mind, policy DM4 does not explicitly prevent development outside of the defined village envelope. It is also clear that the development would make best use of the available land and would lead to a more sustainable community through additional residents to support the local facilities in Upper Gravenhurst and surrounding villages.
15. The Council have also referred to Policies CS14, CS16 and DM3 of the CSDMP which require new developments to provide a high quality development which respects the local context and distinctiveness of the area and ensure that the landscape quality of the area is conserved and enhanced.
16. The exact layout, design and landscaping of the site would be considered as part of a reserved matters submission should I be minded to allow the appeal. That said, it would be possible to provide a layout and design which would provide a suitable transition between the open developed land to the south-east and the existing (and proposed) built form of the village.
17. Turning to the effect of the development on green infrastructure and biodiversity, it is noted that the indicative plans show an area of planting at the southern end of the site together with an eco-pond. It is also noted that provision could be made to link the site to the public footpath to the east.
18. The concerns of the ecologist principally relate to the areas of the site where planning permission has already been granted for development. Furthermore, the pond and orchard that were originally on site are no longer present. Notwithstanding that, to my mind, it would be possible to develop the site to include a suitable provision for green infrastructure and biodiversity improvements. The exact detail and nature of such provision could be secured via a suitably worded planning condition should I be minded to allow the appeal and would also form part of the consideration of the layout aspects of the site.
19. The development would provide a net increase of 42 dwelling over and above the existing planning permission at the site, which is a significant benefit and would provide much needed new homes. To my mind, the benefit of such additional homes (in addition to the reasons outlined above) would outweigh any minor conflict with the development plan policies in respect of the location of the village envelope. It is also noted that the development makes provision for a retail unit which would potentially add to the services available within the village. However, it is unclear how this would operate, or indeed whether this would be financially viable, and I therefore give the benefits of such a facility limited weight in my decision.
20. In consideration of all of the above, the development would be broadly consistent with aims and objectives of development plan policies in respect of the effect of the development on the character and appearance of the area. The proposal would be broadly consistent with aims and objectives of Policies CS14, CS16, CS17, DM3, DM4, DM14, DM15 and DM16 of the CSDMP which amongst other matters seek to ensure that new development is of a high quality, conserves and enhances the local character of the area including its landscape, and provide a net gain in green infrastructure and biodiversity. It would also accord with the overarching aims of the 2018 Framework.

### *Highway safety*

21. Whilst the appeal development is in outline with all matters reserved, it is clear that the only vehicular access point is onto Orchard Close and any traffic from the development would then have to turn onto High Street.
22. From the evidence before me, and what I observed on site, parking regularly occurs on street opposite and close to the junction between Orchard Close and High Street. This on street parking restricts the flow of traffic through the village. There is also significant parking along Orchard Close at school pick up/drop off times. However, I also acknowledge that traffic flows along High Street are not excessive, even though at school pick up/drop off times there may be significant activity in the area.
23. Given the above, and the likely level of additional traffic which would be generated by the development, I consider that the existing highway network is sufficient to cater for the demands of the development and would not result in an unacceptable adverse effect on highway safety.
24. For the above reasons the proposal would not result in an unacceptable impact on highway safety nor would it have a residual cumulative impact on the road network. Consequently, the proposal would accord with the transportation aims of the 2018 Framework and Policy DM3 of the CSDMP which amongst other matters seeks to ensure that developments incorporate appropriate access and linkages, including provision for pedestrians, cyclists and public transport.

### *Infrastructure*

25. The Council consider that the development should make financial contributions towards education and recreation facilities together with the provision of affordable housing. In the Councils' appeal statement further requests are also made in relation to a rights of way enhancement contribution, sports provisions and traffic calming, with an indication that further unspecified matters may also be required.
26. Policy CS7 of the CSDMP sets out that for a development of this size at least 35% or more units should be affordable. The indicative plans for the development appear to allow for the provision of affordable housing but significantly there is no method contained within the application to ensure that such provision is actually delivered. Therefore, in the absence of any mechanism to deliver much needed affordable housing the proposal would be clearly contrary to Policy CS7 and the 2018 Framework.
27. In relation to the other infrastructure requests, the Council consider that financial contributions should be made towards education provision and recreational facilities. However very little evidence has been provided to justify such requirements (or the level of such contributions) or how the development impacts on any of the requirements outlined by the Council. Furthermore, there is not any detailed evidence concerning existing shortfalls in any of those infrastructure areas and very limited information on how the contributions would be spent.
28. Given the above, and notwithstanding the aims of Policy CS2 of the CSDMP, it has not been demonstrated that any of the contributions sought directly relate to the development or are necessary to make the development acceptable in

planning terms. Therefore I am unable to conclude that the contributions sought would fully comply with Regulation 122 of the Community Infrastructure Levy Regulations. In these circumstances, the absence of a planning obligation to secure the requested contributions and/or infrastructure does not weigh against the development.

29. For the above reasons the development would not make provision for the delivery of affordable housing contrary to Policy CS7 of the CSDMP which ensure that sites deliver an appropriate amount of affordable housing. It would also be at odds with the affordable housing aims of the 2018 Framework.

#### *Planning balance*

30. The Appellant has stated that they are not reliant on the untested position in respect of whether the Council can demonstrate a deliverable 5 year supply of housing.
31. Both the Appellant and the Council have made reference to various appeal decisions some of which have concluded that the Council do not have a five year supply of housing and some of which conclude that there is such a supply<sup>3</sup>. From the information before me, it is unclear whether the Council can demonstrate a deliverable 5 year supply of housing.
32. On the assumption that the Council cannot demonstrate such a supply, the 2018 Framework indicates that planning decisions should apply a presumption of sustainable development. For decision taking, where Development Plan policies which are the most important for determining the application are out of date<sup>4</sup>, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the 2018 Framework taken as a whole.
33. In this case, I have found that proposal would not make provision for the delivery of much needed affordable housing. This factor weighs heavily against allowing the proposed development.
34. Notwithstanding that, the development would give rise to some minor social benefits in that it would provide much needed additional housing. The development would also bring some minor economic benefits through the construction process and the potential to support local facilities. These matters are in favour of the proposed development.
35. Looking at the environmental factors, to my mind the impact is neutral given small loss of open countryside and benefits associated with green infrastructure and biodiversity.
36. The provision of an additional 42 dwellings (over and above the existing permission at the site) would help to contribute towards housing land supply in Central Bedfordshire should there be a deficit in supply. However, any benefit is severely tempered by the lack of provision of affordable housing.
37. Against this background, the harm identified significantly and demonstrably outweighs the benefits when assessed against the policies in the 2018

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<sup>3</sup> References APP/P0240/W/17/3184967; APP/P0240/W/17/3176387; APP/P0240/W/17/3186914; APP/P0240/W/17/3181269 and APP/P0240/W/17/3170803.

<sup>4</sup> Footnote 7 includes situations where the local planning authority cannot demonstrate five year supply of deliverable housing sites.

Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

**Conclusion**

38. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*Chris Forrett*

INSPECTOR

Richborough Estates