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## Appeal Decision

Hearing held and site visit made on 28 August 2014

**by Terry G Phillimore MA MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 September 2014

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**Appeal Ref: APP/P0240/A/14/2214044**

**Land adjacent 133 Stoke Road, Linslade, Leighton Buzzard, Bedfordshire LU7 2RH**

- 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 Mr Kevin Smith and The Haven Development Ltd Pension Fund against the decision of Central Bedfordshire Council.
  - The application Ref CB/13/03930/OUT, dated 31 October 2013, was refused by notice dated 18 February 2014.
  - The development proposed is elderly persons over 55s residential community including dementia care unit, respite care unit, 21 elderly dwellings and community centre.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The appeal relates to an outline planning application. While the application form showed that approval was being sought at this stage for layout, the submitted plan was described as illustrative, and at the hearing it was agreed that layout should be treated as a reserved matter. All other matters of detail are also reserved other than means of access.
3. The Council issued its refusal notice on 18 February 2014, and it was agreed that the appeal should be considered as one against this decision.
4. The Pre-Submission Development Strategy for Central Bedfordshire of January 2013 has been withdrawn and replaced by an updated version which went to public consultation in June 2014. This is due to be submitted for examination in October. There is agreement that at the stage reached the emerging plan carries little weight.
5. Prior to the hearing the attention of the main parties was drawn to the judgment of the High Court in Redhill Aerodrome Limited vs Secretary of State for Communities and Local Government, Tandridge District Council and Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin). The parties were able to comment on the implications of the judgment for their cases at the hearing.

## **Main Issues**

6. The site lies within the Green Belt and there is no dispute that the proposal involves inappropriate development as defined in the National Planning Policy Framework (NPPF). The main issues are therefore:
  - a) the effect the proposal would have on the Green Belt;
  - b) whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations relating to need for the proposal, so as to amount to the very special circumstances necessary to justify such inappropriate development;
  - c) the effect the development would have on the landscape character and appearance of the area;
  - d) whether the proposal makes satisfactory provision for biodiversity;
  - e) whether the proposal makes satisfactory provision for archaeology;
  - f) whether the proposal should be accompanied by provision towards infrastructure.

## **Reasons**

### ***Green Belt***

7. The site of some 0.9ha comprises an overgrown grassed area of irregular shape. To the east is the vegetated verge onto Stoke Road and the large plot of 133 Stoke Road, to the south are residential properties on Stoke Road and Golden Riddy, to the west the cutting and tunnel of the main London to Birmingham railway line, and to the north is Linslade Wood which forms part of a designated Area of Great Landscape Value.
8. There are no existing structures on the site. The indicative layout shows a spread of new buildings across the whole site. Although some spaces around these would be retained, the proposal would substantially erode the existing openness of the site and this part of the Green Belt. The NPPF says that openness and permanence are the essential characteristics of Green Belts.
9. In terms of the purposes of Green Belts, the proposal would add to the sprawl of the built-up area of Leighton Buzzard and incrementally contribute towards a merging of this with other towns. It would involve an encroachment onto what amounts to a parcel of countryside. There would be no effect on the setting or special character of historic towns, but there would also be no assistance to urban regeneration by way of this development outside the existing settlement.
10. The proposal would therefore result in some further harm to the Green Belt in addition to that by reason of inappropriateness. This Green Belt harm carries substantial weight in accordance with the NPPF.

### ***Very special circumstances***

11. According to the NPPF, inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In accordance with the judgment of the High Court in the Redhill case, cited above, such harm should be limited

- to that to the Green Belt in carrying out the Green Belt balancing exercise. In this case it is therefore the harm identified under the first issue.
12. The appellant states that the development would comprise a 30 bed dementia care unit; a 15 bed respite care unit; a community facility; 9 elderly person two bed houses; 12 one and two bed elderly person bungalows; parking, access and landscaping. At the hearing it was emphasised by the appellant that the proposal is considered to be innovative and ground making in terms of the form of provision that it would make for the over 55s and in particular as a response to dementia needs. The intention is to create a community rather than provide a traditional care home. Submitted information draws attention to the growth in population in Central Bedfordshire and especially the anticipated increase in the numbers of elderly people and of those with dementia.
  13. The representative of the Council's Social Care, Health and Housing Directorate explained at the hearing its view on the current position with respect to corporate objectives on meeting the accommodation needs of older people up to 2020. With committed schemes and anticipated future developments, this is that, notwithstanding the need to re-provide an existing residential home (Westland), the Leighton-Linacre area is likely to be relatively well provided for in terms of both residential and nursing care homes and specialist accommodation for older people over the next few years. While he recognised that there could be a potential market for the proposed scheme were it developed, he pointed out that the site does not benefit from a central location which is desirable for some forms of specialist accommodation.
  14. The appellant has provided evidence of engagement with the Council at the early stages of the scheme, the changes made to it in response to the advice received, and the degree of support given. While there is understandable concern about apparent inconsistency in that respect, the above position as set out at the hearing has to be taken as the Council's current view on the local need for the proposal. From this I conclude that, while the scheme could be part of a varied mix of provision for the elderly, is intended to incorporate novel elements, and responds to demographic trends, it does not appear that there is a specific need for it which involves a requirement to be on the particular site.
  15. The Council's evidence indicates that it currently has a housing land supply of more than 6 years, as calculated on the basis of objectively assessed housing needs. The appellant did not attempt to dispute this at the hearing. This evidence does not suggest a particular shortage of land to meet housing needs in the area including of the elderly.
  16. The proposal would be consistent with a number of objectives of sustainable development, as identified by the appellant. However, under the NPPF the presumption in favour of sustainable development does not apply in the Green Belt. Any wider review of the Green Belt boundary in the area and potential releases, and the relative merits of the site in that respect, are matters for the development plan process, despite the appellant's misgivings on the speed of progress of that.
  17. I conclude that the case put forward in support of the proposal carries a degree of weight, but this is limited to the scheme being a development albeit with some novel aspects that would help to meet general elderly and dementia needs. These considerations do not clearly outweigh the harm to the Green

Belt such as to justify the inappropriate development on the basis of very special circumstances. The proposal in this respect does not comply with the strategy set out in policy SD1 of the South Bedfordshire Local Plan Review 2004, which includes a need for acceptability in terms of Green Belt policy.

### **Landscape**

18. While the site lies adjacent to the Area of Great Landscape Value, it is not covered by that designation. The indicative layout shows significant scope for retention of existing planting together with new planting both around the edges of the site and within it. Although the new development would be seen from neighbouring properties and from along its north edge, it would not be prominent from Stoke Road, and would essentially appear as a continuation of the existing built-up area. Although the built-up area would be extended by the proposal, there would be no significant adverse effect on local distinctiveness or harm to the character and setting of the Area of Great Landscape Value.
19. The proposal in this respect meets the requirements of policies BE8 and NE3 of the South Bedfordshire Local Plan Review 2004.

### **Biodiversity**

20. The Council's ecologist points out that the site is an undeveloped grass area adjacent to open countryside and borders the railway line which is a useful wildlife corridor. It is said that the habitat is currently suitable for ground nesting birds, reptiles and small mammals including badgers and deer, and represents ideal foraging area for bats. There is no reason to doubt that this is an informed opinion.
21. No ecological survey of the site has been carried out. The appellant considers that this matter could be dealt with by way of a condition. However, the potential impact on biodiversity could be significant based on the extent of development proposed, despite the application being in outline. Due to the ecological interest that might be present, on the basis of reasonable likelihood, the requirement for an ecological survey in advance of the granting of any permission is warranted.

### **Archaeology**

22. The Council's archaeologist notes that an archaeological field evaluation undertaken in 2008 relating to a proposal on land immediately to the east identified extensive and well preserved remains of a late Iron Age and Roman settlement. There was also evidence of early-middle Saxon occupation. Although this site contains no known archaeological sites or features, it is said that there is a high probability of further remains relating to these eras extending to the site.
23. No archaeological evaluation has been submitted. On the basis of the available evidence, a condition to provide for this would not be satisfactory given the potential harm to archaeological interest that could result from the proposed development. A requirement for a field evaluation at this stage is therefore justified.

### ***Obligations***

24. The appellant has submitted a draft unilateral undertaking containing planning obligations, but there is no final version. At the hearing a willingness to make financial contributions totalling some £20,000 was indicated. The Council has set out a list of contributions sought totalling £75,306. This is not broken down in detail, and there is no specification of where the contributions would be spent or the particular problems that would arise in the absence of these. Despite the support for seeking planning obligations given by the Council's supplementary planning document on the matter, I cannot conclude that the contributions sought have been shown to be necessary such that the absence of these is a factor against the proposal.

### **Other Matters and Overall Conclusion**

25. The Council withdrew its objection on grounds of highways impact following provision of a transport statement by the appellant. While I note concerns of local residents about use of the proposed access, I find no reason to disagree with the joint expert assessment that subject to appropriate conditions this would be acceptable.
26. I have taken into account all other matters raised including concern expressed by the appellant about how the planning application was dealt with. I have found the proposal to be acceptable in terms of landscape and highways impact, and that a need for contributions towards infrastructure has not been demonstrated. However, the harm to the Green Belt has not been justified on the basis of very special circumstances, and there are further shortcomings in terms of safeguarding biodiversity and archaeological interests. Overall the proposal does not comply with the development plan, and the balance of considerations is against the granting of permission.
27. I therefore conclude that the appeal should be dismissed.

*T G Phillimore*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Kevin Smith	Appellant
Adrian Smith	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Abel Bunu	Central Bedfordshire Council Planning (case officer)
Tim Hoyle	Central Bedfordshire Council Head of Service (Meeting Accommodation Needs of Older People)

### INTERESTED PERSONS:

Thurstan Adburgham	Campaign to Protect Rural England (South Beds & Luton)
Grahame Beard	Local resident
Emma Page	Local resident
Simon Page	Local resident
Sheila Foster	Local resident
Susan Clarke	Local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Council's suggested conditions
- 2 Letter from Tim Hoyle, Central Bedfordshire Council dated 6 January 2013
- 3 Council's information on planning obligations sought