



Appeal Decision

Site visit made on 4 December 2023

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 February 2024

Appeal Ref: APP/Y0435/W/23/3323492

Acorn (MK) Nurseries, Newton Road, Emberton, Milton Keynes MK46 5JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Mr Ian Pretty, Mr Stephen Burchmore and Francis Jackson Homes Ltd against Milton Keynes City Council.
- The application Ref 23/00342/OUT, is dated 8 February 2023.
- The development proposed is outline planning application (all matters reserved, except for access) for the residential redevelopment of the Acorn (MK) Nurseries site for up to 29 no. dwellings (including affordable housing), plus access and other off-site highways improvements, following the demolition and removal of all existing structures and hardstanding from the site.

Decision

1. The appeal is dismissed and outline planning permission (all matters reserved, except for access) for the residential redevelopment of the Acorn (MK) Nurseries site for up to 29 no. dwellings (including affordable housing), plus access and other off-site highways improvements, following the demolition and removal of all existing structures and hardstanding from the site is refused.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, during the course of this appeal. I invited the parties to consider whether the revised Framework had relevance to this appeal and have taken account of their comments in my decision.
3. I understand the Emberton Neighbourhood Plan 2019 to 2031 (ENP) has been made following a referendum, and that there was no change to the content of the Plan between the referendum and making. The made ENP supersedes all previous drafts of the emerging Neighbourhood Plan referred to in this appeal.
4. The planning application is submitted in outline with all matters other than access reserved for a subsequent reserved matters application. Plans and other documents that accompany the outline planning application give indicative details about other aspects of the proposal. I have taken these indicative details into account only insofar as establishing whether it would be possible, in principle, to redevelop the appeal site for up to 29 dwellings (including affordable housing) plus access and other off-site highways improvements, following the demolition and removal of all existing structures and hardstanding from the site.
5. The Council is concerned the description of the proposed development does not make explicit provision for roads and drainage infrastructure or on-site open

space and therefore cannot provide a basis for provision of these elements at a later date. Even if on-site open space were required, on the evidence before me I am satisfied the description of development on the planning application form does provide a suitable basis for consideration of the proposed development at outline stage and for future consideration of relevant further details at reserved matters stage. I have therefore made no change to the description of development provided by the appellant.

6. The appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission had it been able to do so. I have had regard to the Council's statement in framing the main issues.

Main Issues

7. The main issues are:

- the effect of the proposal on the rural character and appearance of the surrounding countryside; and
- whether the proposal would be in a suitable location for housing with respect to the settlement boundaries for Emberton.

Reasons

Character and appearance

8. The appeal site is within the historic parish of Emberton, which comprises the village of Emberton and surrounding farmsteads, fields and isolated dwellings. The parish has been bisected by the A509. Emberton village lies primarily to the west of this road, mostly separated from it by a buffer of paddocks. There is a small ribbon of dwellings along the eastern side of the A509, mainly to the south of Newton Road. The appeal site is east of the A509 and north of Newton Road. There are a few residential buildings and a paddock between it and the A road. Otherwise, it is surrounded by fields and paddocks, although the existing ribbon of homes is nearby. The surrounding landscape is gently undulating and open with a generally rural character.
9. The appeal site comprises hardstanding and a large shed, but serried ranks of plants for sale lend it a verdant appearance, notwithstanding its retail use. It is separated from neighbouring fields by a distinct border of trees and shrubs, and from Newton Road by a hedgerow. When viewed from lanes and public footpaths to its north and east, the site therefore appears somewhat contained. Nevertheless, it can be clearly glimpsed through the treed borders, especially in winter months. Overall, the site's horticultural character blends into the surrounding countryside.
10. The proposed estate of up to 29 homes, with outbuildings, would introduce considerably more built form to the appeal site than is currently present. The treed borders would remain. I also note the indicative layout shows the dwellings would be set well in from the north and east sides behind new areas of soft landscaping. The replacement hedgerow would help to re-establish a verdant southern border in time. Nevertheless, the development would be clearly seen as a substantial cluster of buildings when viewed from the

surrounding countryside and public footpaths, and when travelling west along Newton Road.

11. The quantum of housing east of the A509 would more than double, in a form and to a scale unlike previous incremental and modest developments on this side of the trunk road. Even with additional planting, the appearance of the site in combination with the existing housing would become considerably more urban. This would detract from the rural character of the surrounding area, notwithstanding the influence of the existing built form to the west of the site identified in the appellant's Landscape and Visual Impact Assessment.
12. I accept the ENP does not seek to control the land use of the appeal site. Nevertheless, Policy CD2 of the ENP requires, amongst other things, a scale of development that reflects the character of the area; and Policy H1 of the ENP states development should preserve the wider landscape setting of the village. For the reasons given above, the proposal would not be consistent with these objectives, however high the quality of the development's detailed design.
13. I therefore conclude the proposal would have a harmful effect on the rural character and appearance of the surrounding countryside. This is contrary to Policies D1, D2 and NE5 of Milton Keynes Council Plan:MK 2016-2031 (PMK) and Policies H1 and CD2 of the ENP. Together, these policies require development proposals to respond to and integrate with local surroundings and landscape context, and to create a positive character. It is also contrary to the Framework, where it seeks development that is sympathetic to local character, including the surrounding landscape setting.
14. I will consider Policy H4 of the ENP under the next main issue.

Location with respect to settlement boundaries of Emberton

15. Policy DS1 of PMK sets out the settlement hierarchy for the Council area. This prioritises Milton Keynes City and key settlements as locations for the provision of new homes. The policy states that elsewhere within the rural area, new development will occur within the defined settlement boundaries of villages and other rural settlements at locations identified in made neighbourhood plans. Policy DS2 of PMK permits development proposals within the defined settlement boundaries where they comply with all other relevant policies of PMK and neighbourhood plans.
16. Policy H1 of the ENP supports the continued organic growth of housing within the village of Emberton, which it equates to around 10 houses over the plan period. It prioritises locations within the development boundary of the village, which, the supporting text explains, has been expanded in the ENP to accommodate this level of growth through sensitive infill development.
17. The appeal site lies outside the development boundaries defined on both the PMK Policies Map and the ENP Designations and Allocations Map. The A509 is a significant barrier between the site and the defined settlement of Emberton. The site is therefore in an open countryside location for the purposes of the development plan. Policy DS5 of PMK only supports development in open countryside which is wholly appropriate to a rural area and cannot be located within a settlement, or where other policies within the plan indicate development would be appropriate. Policy H1 of the ENP is consistent with this approach.

18. Given the development plan's prioritisation of existing settlements for new housing, the proposal for up to 29 dwellings outside the settlement would not satisfy the test of being wholly appropriate to a rural area. Nor can a development of that scale be located within the ENP's defined development boundary. The proposal would expand the settlement by almost three times the level of growth anticipated for it over the plan period, in addition to the locations identified within that boundary for new housing. This would not be consistent with the objectives of organic growth and sensitive infill development. I have also identified a conflict, above, with other policies in the development plan. Therefore, the requirements of Policy DS5 of the PMK would not be met.
19. I accept Policies DS1 and DS2 of PMK do not preclude development on sites outside of defined settlement boundaries and that the housing delivery target in Policy DS2 is a minimum figure. Nevertheless, these policies make specific reference to the role of neighbourhood plans in identifying locations suitable for new housing. The ENP has very recently become part of the development plan and it contains policies and allocations for the delivery of housing to meet the requirement for the neighbourhood area. Reading the development plan as a whole, I find a conflict with Policy H1 of the ENP.
20. Policy H4 of the ENP requires integration of new housing, ensuring new residents can access facilities and services, and resists 'enclosed or private' estates. The proposal includes planning obligations for measures to improve pedestrian and cycle access to Emberton and nearby Olney, and vouchers to facilitate public transport use. On the evidence before me, these obligations are necessary, directly related to the development and fairly related to it in scale and kind. Therefore, on the basis that they would be secured were the appeal to be allowed, the occupants of the development would have an acceptable level of access to facilities and services.
21. The question of enclosure would need to be considered as part of detailed layout and design, which are reserved matters. Nonetheless, insofar as it applies to the outline proposal before me, I am satisfied the requirements of Policy H4 of the ENP would be met.
22. It is common ground between the parties that the site meets the Framework's definition of previously developed land (PDL), also known as brownfield land, and I see no reason to disagree. It has been put to me that the Framework's approach to PDL, in the context of its objective to significantly boost the supply of homes, gives strong support to the proposal.
23. Paragraph 123 of the Framework refers to PDL in relation to strategic policies; paragraph 124 requires substantial weight to be given to use of suitable brownfield land within settlements; paragraph 125 states plan-making bodies should take a proactive role in identifying land suitable for meeting development needs; and paragraph 127 supports alternative uses of PDL where this would help to meet identified development needs. Paragraph 89 is in part 6 of the Framework, which relates to building a strong, competitive economy. Overall, therefore, even if development of PDL outside settlements is not precluded by these paragraphs, and even if paragraph 89's encouragement for use of PDL in rural areas applies to housing, the Framework supports a strategic approach to development of PDL. Moreover, paragraph 74 of the

Framework requires suitable locations for large numbers of new homes to be identified with the support of communities.

24. The housing policies in the PMK and ENP, including the broad level of growth identified for Emberton and the inclusion of a windfall allowance in the housing target, are consistent with the Framework's approach. Whilst Policy DS1 of the PMK refers to brownfield opportunities, this is specific to Milton Keynes City, at the top of its settlement hierarchy. Furthermore, whilst I acknowledge the proposal's contribution to the supply of housing, the Council states its supply of deliverable housing sites exceeds six years and the appellant does not disagree. Taking all this together, the Framework's support for effective use of PDL does not outweigh the conflict with the development plan I have identified.
25. The appellant has drawn my attention to an appeal decision for 34 Gravel Walk¹. The proposal in that case was for one detached dwelling, and the site was at the top of a residential street, adjacent to the built edge of the village of Emberton. It therefore involved a considerably smaller scale of development, and the location had a much closer relationship to the development boundary of the village than is the case in this appeal. In addition, the ENP was at an early stage of preparation, so the Inspector afforded it only limited weight. Consequently, the circumstances in that appeal are not sufficiently closely related to be comparable. In any event, I am required to determine this appeal on its own merits.
26. For the above reasons, I conclude the proposal would not be in a suitable for housing with respect to the settlement boundaries for Emberton. As set out above, this is contrary to Policies DS1, DS2 and DS5 of PMK, Policy H1 of the ENP and the Framework. However, I have found no conflict with Policy H4 of the ENP.

Other Matters

27. The appeal site is within the setting of Emberton House and the nearby former stable building, both of which are Grade II listed. Emberton House is a late eighteenth-century farmhouse, the significance of which is derived principally from its architectural form and details, including bays, gables and cornices. The stable building dates from the early nineteenth-century, with significance derived primarily from its materials, bays, doors and casements. The buildings and their walled grounds are related by their historic farm use. This, and their relationship with Newton Road, contribute to their shared setting within the historic parish of Emberton. This setting has been somewhat compromised by the A509 and some other development but nevertheless contributes to the significance of the listed buildings.
28. There is little inter-visibility between Emberton House and the appeal site. The entrance to the appeal site can be seen from the driveway of the former stable building. This entrance would be moved and replaced by new planting, which would in time help to screen the corner of the proposed development that would be visible from this perspective. On the evidence before me, the appeal site has little connection to the historic farm use of the listed buildings and the location of its entrance is not integral to their setting. On balance, I find the setting of the listed buildings would be preserved and there would be no harm to their significance as designated heritage assets from the outline proposal.

¹ Appeal reference APP/Y0435/W/21/3286461

29. The appeal site is near but outside the Emberton Conservation Area (CA), which comprises the historic core of Emberton village, west of the A509. The CA's significance is derived primarily from the village layout, which includes several historic buildings, the parish church and a central clock tower. The setting of the CA includes the countryside and parish surrounding the village. This setting contributes to the significance of the CA because of the historic relationship between the village and its parish. The proposed development would not materially change this relationship. In addition, the A509 and housing and trees to its east restrict most inter-visibility between the appeal site and the CA. Consequently, the proposal would have a neutral effect on the setting of the CA and would not harm its significance as a designated heritage asset.
30. The improvements to footways, the cycle path and crossings would improve connectivity for the wider community of Emberton as sought by the ENP, so I ascribe this benefit moderate weight. The development of up to 29 homes would contribute to the vitality of the local rural economy through construction, support for a small to medium size building firm and future occupiers' use of local services and community facilities. However, given jobs would also be lost from the existing use of the site, I attribute limited weight to this benefit.
31. The proposal would include 31 per cent affordable housing. This would be secured through a planning obligation and a condition would require details of the mix and type of dwellings as part of the reserved matters submission, were the appeal to be allowed. Provision of affordable housing is a benefit of the proposal. However, the quantum would not exceed that required under Policy HN2 of the PMK. In addition, whilst I note the reference to historic under-delivery of affordable housing, there is little detailed evidence before me to substantiate this. Therefore, in the absence of compelling evidence of unmet need, I ascribe this benefit limited weight.
32. There is little before me to substantiate concerns about the safety of the current access to the appeal site, so I give any benefit associated with changing the access minimal weight. Use of new landscaped spaces within the development by existing local residents would depend on detailed design, so this consideration has had little bearing on my decision.
33. Further details of biodiversity/ecological mitigation and enhancement, including hedgerow replacement, could be secured by condition were the appeal to be allowed, for consideration at reserved matters stage. The level of biodiversity net gain would exceed 10 per cent and I give this benefit moderate weight given the size of the site. Comments made by the Council's Ecology Officer about a previous withdrawn application are not directly relevant to the circumstances before me, so have had little bearing on my decision.
34. The Council is satisfied with the safety of the proposed access. On the evidence before me I see no reason to disagree with this assessment. Further consideration of trees, contamination, flood risk, waste and archaeology could be secured by condition, were the appeal to be allowed. Planning obligations would secure financial contributions towards local education and healthcare facilities, to mitigate the impact of increased demand on infrastructure from the development, and to comply with Policy CC1 of the MPK were the appeal to be allowed. However, an absence of harm in these regards is a neutral factor.

Traffic generated by the new development would outweigh the benefit of removing traffic from the existing use.

35. I acknowledge the proposal and associated benefits have evolved following a period of local engagement and are not in that sense 'speculative'. Nevertheless, I am required to consider this appeal on the evidence before me. Overall, individually or cumulatively, the benefits of the proposal identified above do not outweigh the substantial harm arising from the conflicts with the development plan I have found.

Conclusion

36. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

C Carpenter

INSPECTOR

Richborough