
Appeal Decision

Hearing held on 24 and 25 October 2023

Site visit made on 25 October 2023

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Appeal Ref: APP/Y0435/W/23/3317652

Eagle Farm, Cranfield Road, Wavendon, Milton Keynes MK17 8AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by McCann Homes against the decision of Milton Keynes Council.
 - The application Ref 21/02541/FUL, dated 11 August 2021, was refused by notice dated 4 November 2022.
 - The development proposed is part demolition and part conversion of existing buildings to provide 6 residential dwellinghouses (Use Class C3), and construction of 13 new residential dwellinghouses (Use Class C3), with associated car and bicycle parking, internal access roads and landscaping, and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for part demolition and part conversion of existing buildings to provide 6 residential dwellinghouses (Use Class C3), and construction of 13 new residential dwellinghouses (Use Class C3), with associated car and bicycle parking, internal access roads and landscaping, and other associated works at Eagle Farm, Cranfield Road, Wavendon, Milton Keynes MK17 8AU in accordance with the terms of the application, Ref 21/02541/FUL, dated 11 August 2021, subject to the attached schedule of conditions.

Applications for costs

2. An application for an award of costs was made by McCann Homes against Milton Keynes Council. An application an award of costs was also made by Milton Keynes Council against McCann Homes. These applications are the subject of separate Decisions.

Preliminary Matters

3. The National Planning Policy Framework (Framework) was revised in December 2023. The main parties were consulted, and I have taken into account any comments.
4. While I note the address stated in the appeal form and decision notice, I have used the address as stated in the application form in the header above in the interests of certainty.

Main Issues

5. The first part of the first reason for refusal as well as the second, fifth and seventh reasons for refusal relating to employment use, affordable housing,

open space and planning obligation are no longer contested by Council. From the evidence including the signed and dated legal agreement, I see no reason to disagree. Therefore, the main issues are:

- whether the proposal would accord with the Council's development plan strategy for housing in the open countryside;
- whether the proposal would provide sufficient pedestrian footpaths and cycle ways to the surrounding local area;
- the effect of the proposal on non-designated heritage assets on the site; and
- whether the proposal would provide a suitable surface water drainage strategy.

Reasons

Development plan strategy

6. The site lies in the open countryside as defined in Milton Keynes Council Plan:MK 2016-2031 Adopted March 2019 (Plan:MK). Plan:MK Policy DS5 sets out criteria for development in the countryside. As the proposal would not meet any of the listed criteria, it would conflict with this Policy. In addition, Plan:MK Policy DS1 directs new development to within defined settlement boundaries.
7. Consequently, the proposal would not accord with the Council's development plan strategy for housing in the open countryside.

Pedestrian footpaths and cycle ways

8. A link to pedestrian footpaths and cycle ways is proposed at the southern boundary of the site as indicated in the submitted Proposed Site Layout Plan. It would connect to the Wavendon Lodge Mews (WLM) site to the south which is partly owned by the Appellant.
9. The proposed route through the WLM site is not set out in the submitted application drawings. However, drawings¹ which show the proposed route passing through the WLM site to approved footpaths were submitted during the appeal. There were no amendments to the proposal itself and the position of the link within the site was indicated on the submitted drawings. Therefore, interested parties would not be prejudiced by my acceptance of the drawings.
10. As I observed during my site visit, the intended path would pass through a car park to the south of the site. It would then pass through a gap between existing buildings before joining the existing WLM access road which leads to Lower End Road. In addition, the Redway Network would be a short distance away which would lead to services and facilities.
11. Accordingly, while the proposed pedestrian and cycle connections to the surrounding area would not be the most convenient route, it would provide a satisfactory pedestrian and cycle link to the surrounding area.
12. Cranfield Road, from which the vehicular access to the site would be taken, and Lower End Road form part of the National Cycle Network. The part of the roads near the site lack designated cycle paths and street lights. However, given the

¹ V18-139-P120 RevP6 Proposed Redway Connection Plan -Plan 1 and V18-139-P121 Rev P2 Proposed Redway Connection Plan -Plan 2

alternative link through WLM estate, the proposal would provide adequate pedestrian and cycle connectivity to the local area.

13. A condition prohibiting the occupation of the dwellings until the route is established was suggested in the evidence. Planning Practice Guidance advises that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. The route leading to the WLM access road outside the red line boundary would lie on land controlled by the Appellant. Therefore, there is at least some prospect that the route would be implemented, and a condition could adequately address this matter.
14. An objection was raised regarding the lack of a connection to the play area to the north of the site. Given the connection to the south of the site which I have found to be acceptable, this matter has not altered my overall finding on this issue.
15. I note concerns that wider assessments of the scheme such as relating to ecology, do not include the footpath link. However, given the location of the link, it is unlikely that it would affect the layout of the scheme. Moreover, an indication of where the link would be within the red line boundary is shown on the submitted drawings which were consulted upon.
16. As discussed during the hearing, the access road within the site is proposed to be a shared surface for use by pedestrians and cyclists as well as vehicles. Given the limited distance of the access road, this provision would be adequate.
17. Consequently, the proposal would provide sufficient pedestrian footpaths and cycle ways to the surrounding local area. Therefore, it would not conflict with Plan:MK Policy CT3 which seeks development that enable people to access essential services and community facilities by walking and cycling.

Non-designated heritage assets

18. The existing barn structures on the site are non-designated heritage assets. Wavendon Lodge, previously known as Eagle House lies to the south of the site. The historic barn structures on the site consist of a former threshing barn, former combination barn and former stable which once served Wavendon Lodge. While the date of construction of Wavendon Lodge is unknown, the Heritage Statement submitted as part of the application estimates that the complex dates to the mid-eighteenth century. Together along with Wavendon Lodge, the complex is a diluted example of a farmstead arranged on a regular courtyard U-plan.
19. Wavendon Lodge is now under separate ownership, and the barn structures on the site have been significantly altered over time. In particular, a large 20th century building has been built adjoining the barns which has significantly diminished the legibility of their plan form. Nonetheless, the overall form of the barn buildings are legible from some views. As such, the historic and architectural significance of the buildings lie in the evidence of the mid-18th century farmstead courtyard layout. Given the alterations and additions to the complex in the 20th century, the significance is limited.
20. The proposal would retain the barns including the overall structure such as a number of timber beams and trusses and demolish the large adjoining 20th century structure. The Survey Report indicates that not all areas of the barns

were inspected and so the condition and structural integrity of the surviving fabric in the uninspected areas is uncertain. In addition, it is likely that the demolition of the adjoining structure and conversion of the barns to dwellings would result in the loss of some historic fabric.

21. However, the overall historic plan form of the courtyard layout would be largely reinstated through the demolition of the adjacent modern structure, and the overall form of the barns would be better revealed as the height, roof form and external walls would be made visible. In addition, the primary timber structure is proposed to be retained where possible and some original elements such as the threshing barn doors are proposed to be repaired. Therefore, despite the loss of historic fabric, the proposal overall would secure the retention of the historic plan form. Furthermore, the proposed conversion to a residential use would secure the optimal viable use of the building.
22. Consequently, the proposal overall would enhance the significance of the non-designated heritage asset. Therefore, it would accord with Plan:MK Policy HE1 which seeks development that sustain and, where possible, enhance the significance of heritage assets.

Surface water drainage strategy

23. The site is located within Flood Zone 1. It is largely of concrete hardstanding with considerable areas of roofing which create rapid volumes of runoff to the local watercourse.
24. The amount of hardstanding and building cover would be reduced as part of the proposal and the amount of landscaping would be increased. The surface water drainage strategy is to discharge to the existing drainage ditch to the north west corner of the site. Permeable paving is proposed as well as raised thresholds. Accordingly, the proposal would result in a significant betterment of the site drainage compared with the existing situation.
25. The Conceptual Surface Water Drainage Strategy indicates the plot demises extending to the northern boundary of the site whereas the Proposed Landscape Management Areas (LMA) drawing shows the plot demises extending only up to areas indicated for SUDS/watercourse. The LMA drawing also shows the drainage ditch lying outside the plot demises. Taking the position of the plot demises from this drawing, the outfall would also be located outside plot demises. In addition, there would be a strip of land along the northern boundary that would be under the control of a private management company. As such, access to these areas could be gained without entering the individual properties.
26. The part of the ditch that is culverted lies within the proposed plot demises of Plots 13, 14 and 15. In addition, the route to the outfall would pass through the garden of Plot 11. However, I see no reason why the long term maintenance arrangements for the surface water drainage system could not be secured by a suitably worded condition.
27. A small part of the dwelling at Plot 11 would lie within the 9m buffer zone for the watercourse. However, the encroachment would be limited such that this does not amount to a reason to refuse the development.
28. Consequently, the proposal would provide a suitable surface water drainage strategy. Therefore, the scheme would not conflict with Plan:MK Policies FR1 and FR2 which seek development that incorporate a surface water drainage

system and that suitable access is safeguarded for the maintenance of water supply and drainage infrastructure.

Planning balance

29. The proposal would conflict with Plan:MK Policy DS5 which relates to development in the open countryside. As the development plan was adopted in 2019, it would have been examined and found to be sound. Moreover, paragraph 84 of the Framework revised in December 2023 is largely unchanged from equivalent paragraphs of previous versions of the Framework.
30. Plan:MK Policy DS5 appears to be more restrictive than the approach taken in the Framework. However, the supporting text to the Policy refers to other policies in Plan:MK which cover specific types of development that may be acceptable in the open countryside. In addition, while part D of the Policy refers to paragraph 55 of the Framework, the supporting text cites paragraph 55 as an example of aligning with the Framework, rather than the only part of the Framework the policy is intended to align with. Accordingly, I do not consider that Plan:MK Policy DS5 is inconsistent with the Framework.
31. The site contains former agricultural buildings that are now in industrial use. In addition, there are large areas of hardstanding such that the site has an industrial character.
32. The area to the west of the site benefits from planning permission for housing development and dwellings have been constructed to the south of the site. In addition, there is a play area to the north of the site associated with a housing estate further to the west. Accordingly, the area surrounding the site to three sides has an urban residential character. While there is open countryside to the east of the site, the site is separated from it by Cranfield Road. Therefore, the character of the site relates more closely to the adjacent built up areas than to the open countryside to the east.
33. The supporting text to Plan:MK Policy DS5 states that the open countryside that surrounds Milton Keynes provides distinct and intrinsic character for the whole community to enjoy. Given the industrial character of the site, and the residential character of the adjacent areas, the proposal for housing would result in the site having a residential character that would be more in keeping with the surrounding areas than the existing site. Furthermore, the amount of soft landscaping would be increased, and the form and scale of the dwellings would be more in keeping with the surrounding area compared with the existing buildings. Therefore, the proposal would enhance the character and appearance of the area.
34. I recognise that the proposal would conflict with the Council's development plan strategy for the location of housing in the countryside. However, it would not harm the character and appearance of the countryside and would therefore not conflict with this particular aim of the Policy. I therefore attach moderate weight to the conflict with Plan:MK Policy DS5.
35. The scheme including landscaping would enhance the character and appearance of the area and would be reasonably located in terms of accessibility of services and facilities. I attribute this matter significant weight in favour of the scheme. As discussed earlier, the works to the non-designated heritage asset would enhance its significance. I attribute moderate weight to this benefit

commensurate with the significance of the non-designated heritage asset. While the Council are able to demonstrate a five year housing supply, I am also mindful of the Government's objective of significantly boosting the supply of homes and that a five year supply is not a limit. Accordingly, the provision of 19 dwellings carries weight in favour of the scheme and given the number proposed, I attribute moderate weight to this matter.

36. These are material considerations which warrant a decision other than in accordance with the development plan.

Planning obligation

37. The appellant has completed a Section 106 Agreement (s106) in conjunction with Milton Keynes City Council which includes a number of obligations to come into effect if planning permission is granted.
38. The s106 secures provisions relating to: affordable housing; carbon neutrality contribution; public art contribution; contributions and maintenance costs; category M4 housing units; and expenditure of contributions.
39. I am satisfied that in each case the obligations meet the three tests set out in Paragraph 57 of the Framework for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (2010). As a result, I have taken the s106 into account.

Conditions

40. Conditions relating to time frames and specifying plans are necessary in the interests of certainty. Conditions relating to external materials, landscaping and boundary treatments are necessary to safeguard the character and appearance of the area.
41. Given the historic use of the site, conditions regarding archaeology, building record and the demolition of existing buildings are necessary. A condition regarding ecology is necessary for biodiversity and conditions regarding surface water drainage are necessary to safeguard against flooding.
42. In order to safeguard highway safety, conditions regarding maintenance of roads and footways and vehicle and cycle parking areas are necessary. A conditions relating to energy and sustainability statement is necessary in the interests of sustainability. To ensure that a pedestrian and cycle connection to the local area is secured, a condition requiring such details and implementation is necessary.
43. The suggested condition regarding electric vehicle charging points is not necessary as the provision is included in the Building Regulations 2010.

Conclusion

44. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
V18-139-SLP01 Rev. D, V18-139-SLP02 Rev. A, V18-139-P09 Rev O, V18-139-P20 Rev. B, V18-139-P21 Rev. D, V18-139-P22 Rev. F, V18-139-P23 Rev. B, V18-139-P24 Rev. B, V18-139-P25 Rev. B, V18-139-P26 Rev. B, V18-139-P22 Rev. B, V18-139-P35 Rev. B, V18-139-P39 Rev. C, V18-139-P40 E, V18-139-P41 A and 7439/ASP3 D
- 2) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 3) No development shall take place above slab level until a Schedule of the external materials to be used in the construction of the development has been submitted to, and approved in writing by, the local planning authority. The Schedule shall include detailed specification, photo examples, RAL numbers and/or samples, as appropriate. The development shall thereafter be carried out in full accordance with the approved details prior to the first occupation of the development.
- 4) No development shall take place until an archaeological field evaluation comprising trial trenching has been completed. The archaeological evaluation shall be detailed in a Written Scheme of Investigation which shall be submitted to and approved in writing by the local planning authority. On completion of the archaeological field evaluation a further Written Scheme of Investigation for a programme of archaeological mitigation in respect of any identified areas of significant buried archaeological remains shall be submitted to and approved in writing by the local planning authority. The WSI shall include a statement of significance and research objectives; and:
 - a. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - b. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.No development shall take place other than in accordance with the Written Scheme of investigation so approved. The development hereby permitted shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 5) Prior to the commencement of the development, a Methodology Statement (including a phasing plan and structural assessment and outline of the works of conversion) for the demolition of buildings A, B, C, E and part of F adjacent to the retained non-designated heritage assets (Building D and F) on Plan V18-139-SK99, shall be submitted to and agreed by the local planning authority. The development and associated works to the identified assets shall be carried out in full accordance with the submitted details.

- 6) Prior to the commencement of the development, a Written Scheme of Investigation for a Building Record for the buildings labelled D and F on Plan V18-139-SK99, shall be submitted to and agreed by the local planning authority. The Building Record will be submitted to the local planning authority for agreement.
- 7) Notwithstanding the approved drawings, no development shall take place above slab level until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include existing trees and/or hedgerows to be retained and/or removed accurately shown with root protection areas; existing and proposed finished levels or contours; means of enclosure; visibility splays; areas of hard surfacing materials; proximity between street lights and tree planting; pedestrian access and circulation areas; civic space / public park furniture, play equipment, bins etc.; proposed and existing functional services above and below ground such as cables, pipelines, substations. Soft landscape works shall include planting plans at a minimum scale of 1:200 with schedules of plants noting species, plant supply sizes and proposed densities; written specifications (including cultivation and other operations associated with tree, plant and grass establishment; and the implementation programme. Development shall be carried out in accordance with the approved details. If within a period of two years from the date of the planting of any tree or shrub, that tree or shrub, or any tree and shrub planted in replacement for it, is removed, uprooted or destroyed, dies, becomes severely damaged or diseased, shall be replaced in the next planting season with trees and shrubs of equivalent size, species and quantity. All hard and soft landscape works shall be carried out prior to the occupation of the building(s) or the completion of the development whichever is the sooner or in accordance with a programme agreed in writing with the local planning authority.
- 8) Notwithstanding the approved details, no development shall take place above slab level until details of the proposed boundary treatments have been submitted to and approved in writing by the local planning authority. The details shall include a boundary treatment plan (at a minimum scale of 1:500) detailing the position of all proposed boundary treatment and annotated or accompanied by a schedule specifying the type, height, composition, appearance and installation method of boundary treatment throughout the site. The development shall be carried out in accordance with the approved details prior to the occupation of any part of the development and shall thereafter be retained in that form.
- 9) A landscape management plan for a minimum period of five years, including long term design objectives, management responsibilities and a schedule of landscape maintenance with details of the arrangements for its implementation for all landscaped open space and public amenity areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the initial occupation of the development or the completion of any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out in full accordance with the approved details.
- 10) All mitigation and compensation recommendations set out in the 6048 EcoAp vf1/SF/RL/LN Ecological Appraisal July 2021 shall be implemented

at the appropriate stage of the development and no later than one year after the final occupation of the development.

- 11) Prior to the commencement of the development hereby permitted a detailed design, and associated management and maintenance plan, for a foul and surface water drainage scheme, based on sustainable drainage principles for the site shall be submitted to and be approved in writing by the local planning authority. The management and maintenance plan shall include a detailed time table for the implementation of the foul and surface water drainage scheme. The approved drainage scheme shall subsequently be implemented in accordance with the approved detailed design and in accordance with the approved time table for implementation and be retained thereafter.
- 12) Details for the long term maintenance arrangements for the surface water drainage system (including all SuDS features) to be submitted to and approved in writing by the local planning authority prior to the first occupation of any of the dwellings hereby permitted. The submitted details should identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be carried out in full thereafter.
- 13) Prior to the first occupation of the development hereby approved, details of the management company that shall be responsible for the future maintenance of all the shared/unadopted roads, footways and parking areas within the site, along with an ongoing maintenance strategy, and timescales for their transfer to such a company, shall be submitted to and approved in writing by the local planning authority. Such areas shall be transferred to the management company in accordance with the approved details.
- 14) No building or use hereby permitted shall be occupied or the use commenced until the car/vehicle parking area shown on the Proposed Site Layout Plan: V18-139-P09 Rev O has been constructed, surfaced and permanently marked out. The car parking area so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose thereafter.
- 15) No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the Proposed Site Layout Plan: V18-139-P09 Rev O has been completed. Thereafter, the cycle parking provision shall be kept free of obstruction and shall be available for the parking of cycles only.
- 16) The development hereby approved shall be carried out in accordance with the measures set out in the Energy and Sustainability Statement dated 29th July 2021.
- 17) No building or use hereby permitted shall be occupied or the use commenced until details of a pedestrian and cycle link to Wavendon Lodge Mews is submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the development and retained as such thereafter.

APPEARANCES

FOR THE APPELLANT:

Jennifer Smith	Smith Jenkins
Scott Lyness KC	
Chris Rogers	Technical Director – Hydrology at R P S Group
Peter McCorkell	Architect
Paul Crisp	Heritage

FOR THE LOCAL PLANNING AUTHORITY:

Lakeisha Peacock	Planning officer
Rachel Kilgallon	LLFA
Phil Caves	Highways
Martin Ellison	Conservation

DOCUMENTS

Note regarding planning conditions 4, 5, 10, 13, 14
Plan:MK Policy DS0
Demolition Plan
Proposed plans and elevations plots 3-6
Proposed site layout plan
Proposed Redway Connection Plan – Plan 1
Proposed Redway Connection Plan – Plan 2
Letter dated 8 September 2023 from Rt Hon Michael Gove MP

Appellant response to National Planning Policy Framework December 2023
(12 January 2024)
Council response to National Planning Policy Framework December 2023
(18 January 2024)



Costs Decision

Hearing held on 24 October 2023

Site visit made on 25 October 2023

by **R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Costs application in relation to Appeal Ref: APP/Y0435/W/23/3317652 Eagle Farm, Cranfield Road, Wavendon, Milton Keynes MK17 8AU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by McCann Homes for a partial award of costs against Milton Keynes Council.
 - The appeal was against the refusal of planning permission for part demolition and part conversion of existing buildings to provide 6 residential dwellinghouses (Use Class C3), and construction of 13 new residential dwellinghouses (Use Class C3), with associated car and bicycle parking, internal access roads and landscaping, and other associated works.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council withdrew the part of the first reason for refusal regarding employment land in response to information submitted by the Applicant during the appeal. The Applicant had provided, during the application stage, some information from a surveyor setting out photographs of the existing building and stating that they are not in marketable condition.
4. During the appeal process further details such as an assessment of the cost to refurbish the units for alternative use and EPC certificates were submitted. The Council were satisfied that this evidence provided adequate justification for the lack of marketing. This was a matter of planning judgement, and the Council has not behaved unreasonably in this respect.
5. In terms of Vacant Building Credit (VBC), the additional evidence provided during the appeal included emails from previous tenants confirming the evidence provided during the application process regarding the timing and reason for vacating the units. The issue of whether the evidence demonstrates that the premises were not left vacant for the reason of redevelopment and thus whether VBC applies is a matter of planning judgement and the Council has not behaved unreasonably in this respect.

6. Turning to the reason for refusal relating to access, the planning officer's report refers to an outstanding objection due to the lack of pedestrian footpath to the play area to the north of the site. In addition, the Highway Authority's appeal statement sets out that a cycle and pedestrian connection to the Redway to the north and a contribution to the delivery of that last section of Redway would be welcome.
7. However, the Council did not pursue the matter of the contribution towards the delivery of the last section of Redway and connection to the play area to the North during the appeal. Therefore, even if there was unreasonable behaviour in this respect, it has not led to wasted expense in the appeal process.
8. Although the pedestrian and cycle link within the red line boundary was noted on the drawings, the route outside the site within the Wavendon Lodge Mews site was not highlighted in the evidence. While the route passing through the adjacent approved development may have been clear to the Applicant, the precise route was not expressly noted in the submitted drawings until the hearing. In any event, whether or not these matters could be dealt with by condition, including relating to land outside the site is a matter of planning judgement and the Council has not behaved unreasonably in this respect.
9. Policy DS5 of Plan:MK 2016 – 2031 Adopted March 2016 relates to the open countryside which is a policy designation. The Policy sets out a number of criteria for development in the countryside which the Council assessed and concluded that the proposal would not meet.
10. As set out in the supporting text of the Policy, one of the objectives of the policy is to provide a vision for development proposals on land outside of the defined settlement boundaries. It also recognises the importance of safeguarding the character of the open countryside. Notwithstanding this, the wording of the Policy itself does not require an assessment of the effect on character of the countryside to be made for change of use schemes or new dwellings that are not of exceptional quality.
11. An assessment of the effect of the scheme on the character of the area was made in the planning officer's report and the Council's Appeal Statement makes clear that any benefits associated with the proposal would not outweigh the Policy conflict. Therefore, the Council has not behaved unreasonably in this regard.
12. I note the comments regarding consultation with the Lead Local Flood Authority (LLFA). Although informal consultations may have taken place between the Council and LLFA, from the evidence, no substantial or new issues were raised that would have prejudiced the Applicant or denied them an opportunity to respond. Moreover, the LLFA were represented at the hearing and appeared alongside the Council. Therefore, even if any unreasonable behaviour had occurred in this respect, it would not have altered the reason for refusal and the Applicant would have incurred expense in addressing this issue at appeal in any event.
13. With respect to the approach taken in terms of drainage for the adjacent site, each case must be determined on its own merits and given the particular drainage conditions of the site, the two cases are not directly comparable and the Council has not behaved unreasonably in this respect.

14. Regarding the non-designated heritage asset, the conservation officer stated that the scheme was acceptable in principle but requested further details. However, the planning officer, as the decision maker, was entitled to make a planning judgement that the lack of sufficient information warranted a reason for refusal on this basis. The Council has therefore not behaved unreasonably in this respect.
15. Overall, although I have come to a different view in some respects, the reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would be in conflict with, in their view. These reasons have been adequately substantiated in the Council's statements submitted as part of the appeal and at the hearing.
16. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The Applicant had to address those concerns in any event.

Conclusion

17. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR



Costs Decision

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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The first reason for refusal relates to a failure to provide sufficient marketing information to demonstrate that there is no longer a viable employment use for the buildings associated with the site.
4. Policy ER2 of Plan:MK 2016 – 2031 Adopted March 2016 states that applicants must demonstrate through evidence, including marketing of the site, that there is no longer a reasonable prospect of it being used for the existing or designated employment use. It goes on to say that applicants must also demonstrate that the continued use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.
5. The Appellant submitted information during the application process including a letter from a surveyor with photographs of the buildings on the site concluding that the premises are not in marketable condition. An updated statement of case by the same surveyor submitted during the appeal included assessment of employment spaces in Milton Keynes, the costs to refurbish the existing units for an employment use, and EPC certificates which demonstrate that some of the units do not meet the requirements for marketing.
6. It is unclear why this evidence was not submitted during the application process. However, the evidence substantiates the Appellant's previous position

and does not alter the scheme itself. In addition, the acceptability of evidence as justification for lack of marketing is a matter of planning judgement. Therefore, it was not unreasonable for the Appellant to seek to address this issue through the submission of evidence at appeal.

7. With respect to Vacant Building Credit, information was provided during the appeal process which resulted in the Council withdrawing the second reason for refusal. This information largely substantiates evidence provided at application stage including emails between the parties and does not alter the appeal scheme itself. As such the Appellant has not behaved unreasonably in providing evidence to clarify matters at appeal stage.
8. E-mails from previous tenants of the units were submitted during the appeal which confirm the position set out in the Planning Statement submitted with the application and in e-mails between the parties. As such, this evidence confirms the Appellant's position and has not altered the scheme. Therefore, while I accept that the Council were required to submit two statements at appeal, the submission of this evidence does not amount to unreasonable behaviour.
9. Turning to the third reason for refusal regarding pedestrian and cycle paths to the surrounding area, the point within the red line boundary where the link would be taken was clearly indicated on a number of the submitted drawings both at application and appeal stage.
10. Drawings were submitted during the hearing which demonstrate that the proposed route would pass through the Wavendon Lodge Mews site to the south of the appeal site and on to approved footpaths. Although the drawings indicating the route outside the site was not provided during the application process, they confirm the statements made by the Appellant in their evidence that the route would connect to the Wavendon Lodge Mews development and to the Strategic Land Allocation beyond. Accordingly, the Appellant has not behaved unreasonably in this respect.
11. The Appellant considered that the issue could be dealt with through the use of a condition. This is a matter of planning judgement, and the Appellant has not behaved unreasonably in this regard.

Conclusion

12. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR