



Appeal Decision

Site visit made on 28 October 2011

by **Andrew S Freeman BSc(Hons) DipTP DipEM FRTPI FCIHT MIEEnvSc**

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

Decision date: 3 November 2011

Appeal Ref: APP/P0240/A/11/2157033

**Land adjacent to Ivy Cottage, 3 Oliver's Lane, Stotfold, Hitchin,
Hertfordshire, SG5 4DH**

- 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 Mr S Anderson against the decision of Central Bedfordshire Council.
 - The application Ref CB/11/01188/FULL, dated 28 March 2011, was refused by notice dated 11 July 2011.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Anderson against Central Bedfordshire Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect on infrastructure.

Reasons

4. Core Strategy Policy CS2 states that developer contributions will be expected from any development which would individually or cumulatively necessitate additional or improved infrastructure, or exacerbate an existing deficiency. The nature and scale of development for which contributions will be sought, the level of such contributions and the mechanism for securing will be set out in the Planning Obligations Strategy. In this respect, the Council is seeking contributions from the appeal development with regard to education, leisure and recreational open space.
5. The appellant is challenging the necessity for such contributions. Attention has been drawn to the Community Infrastructure Levy Regulations 2010 and to the requirement for planning obligations to be directly related to the proposed development. It is also argued that limited weight should be accorded to the Supplementary Planning Document on planning obligations. In addition, the basis of calculation (bedroom count) is disputed.
6. I start with consideration of the Supplementary Planning Document (SPD). The first edition was adopted in 2008 with the SPD being "reviewed and approved" in November 2009. Although the appellant contends that there is limited detail

to conclude that the 2009 review followed any formal consultation, the Council's evidence states that any significant changes, additions or alterations identified would be subject to public consultation and consideration prior to their adoption.

7. Reliance has been placed, by the Council, on the 2009 version of the SPD. Taking education contributions as an example, the charge for school extensions is based on the standard charge set by the Department for Children, Schools and Families and is the current guidance on the cost per pupil place for 2008/9 for extensions to existing school facilities. In this and all other respects, I have no reason to suppose that the contributions sought by the Council are based on anything other than sound evidence. I shall give the SPD significant weight in this appeal.
8. The contributions sought are based on the number of bedrooms that there would be within the appeal development. The appellant argues that there would be two bedrooms. A third room on the first floor would be used as a study. If the related window had obscure glazing, this would prevent the use of the room as a bedroom.
9. In my opinion, the room could still be used as a bedroom albeit with an inappropriate loss of amenity if the window were obscure glazed. This detached property would be a large dwelling. In addition to a large lounge and kitchen / diner, accommodation on the ground floor alone would include a games room, cinema room and two bathrooms. In my judgement, the "study" on the first floor (with adjacent bathroom) could well be used as a bedroom. It would be appropriate to regard this house as a three bedroom dwelling.
10. I now return to the central question of whether the contributions sought would be directly related to the development proposed. In terms of education contributions, I can see¹ that Stotfold is a parish where both lower and middle school provision is needed. On lower schools, contributions would be made towards the costs of additional places at schools within the parish including Roecroft Lower School. At middle school level, an extension of the school that will be required as a result of housing developments within the Etonbury catchment is the focus of attention.
11. To my mind, there is a reasonable indication of how any monies would be spent and on what. In this respect, and having regard to parental choice, I do not consider that evidence at the level of individual school catchments is necessary. Confirmation of the expenditure trail, and the timing of provision, would appropriately be provided within a planning obligation (agreement). The agreement would also provide for the return of funds if the expenditure did not happen.
12. Turning to leisure and recreational open space, part of the contribution sought would go towards indoor sport and leisure, in particular, a new leisure centre at Flitwick. The Flitwick Leisure Centre would attract users from the western half of the district. However, Stotfold parish is on the eastern fringe of the district and outside the 15 minute drive time from Flitwick.² In my opinion, there would be no obvious relationship between the development in Stotfold and expenditure at Flitwick.

¹ Background Paper, November 2009, Pages 12 and 13

² Ibid, Page 48

13. There is also inadequate justification for a contribution towards informal open space. In this regard, the Planning Obligations SPD Background Paper at Page 53 indicates a surplus of related amenity space at Stotfold.
14. The situation with regard to children's play space and outdoor sporting open space is somewhat different. The Background Paper shows a deficiency in both these categories (Page 53). This deficiency is confirmed in the Council's appeal statement. In terms of provision on the ground, I can see that the Parish Council would be the provider, drawing on contribution funds. I see this as an appropriate response given that the Parish Council is likely to be the owner of the majority of the open space within Stotfold. However, within any planning obligation, it would be necessary to ensure that provision for children's play and outdoor sport is actually being made with the return of funds in the absence of timely implementation.
15. I conclude that the appeal development would place demands on education, children's play and outdoor sport. I am satisfied that, in principle, the development should be making contributions of the order suggested towards these facilities. Without related infrastructure, service provision could be unacceptably affected and existing deficiencies could be compounded.
16. I acknowledge that, to be lawful, provision made within any planning obligation should be directly related to the proposed development. From the evidence before me, I am satisfied that there would be a direct link between the demands of the development and proposed infrastructure provision. In this regard, I would expect the related obligation to set out the expenditure trail and make provision for the return of funds in the absence of timely project implementation. In the absence of provision for contributions, I find that there would be an unacceptable effect on infrastructure contrary to Core Strategy Policy CS2. The appeal should be dismissed.

Andrew S Freeman

INSPECTOR