
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: 05 November 2018

Appeal Ref: APP/P0240/W/18/3194555

Land East of 13 Clophill Road, Maulden, Bedfordshire MK45 2AA

- 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 Aldbury Homes against Central Bedfordshire Council.
 - The application Ref CB/17/01156/OUT, is dated 8 March 2017.
 - The development proposed is the residential development on land north of Clophill Road, Maulden including other associated works.
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Decision

1. The appeal is dismissed and planning permission for the residential development on land north of Clophill Road, Maulden including other associated works is refused.

Application for costs

2. An application for costs was made by Aldbury Homes against Central Bedfordshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal proposal was submitted in outline with the means of access being considered at the outline stage. Notwithstanding that, an indicative site layout plan which shows 14 dwellings and an indicative street scene have also been submitted which show a way in which the site could be developed. However, with the exception of the means of access on the site layout plan, I have treated these plans as a possible way of developing the site.
4. I have also noted that the Appellant and the Council agreed a revised description of development during the course of the consideration of the application and I have determined the appeal on this basis.
5. 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.
6. 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

7. The main issues are the effect of the proposal on the character and appearance of the area and whether the development would provide affordable housing.

Reasons

Character and appearance

8. The appeal site is located on the north side of Clophill Road to the east of the main part of the village of Maulden. To the east of the site lies a cul-de-sac of further residential development, whilst to the north is open fields.
9. The Central Bedfordshire Core Strategy and Development Management Policies (2009) (CSDMP) sets out a hierarchy for development across the area with the majority of development being directed to the major and minor services centres within defined settlement envelopes. Policy CS1 of the CSDMP defines the main part of Maulden as a large village, and the Clophill Road (Maulden Green End) element as a small village in the settlement hierarchy.
10. From the evidence before me, Maulden has two settlement envelope areas (Maulden main village and Maulden Green End). The appeal site is located between the two settlement envelopes and is therefore located, in planning policy terms, in the countryside. My attention has also been drawn to policy CG8 of the emerging new Local Plan for Central Bedfordshire which designates the land between Maulden main village and Maulden Green End as an important countryside gap. However, as acknowledged by the Council, given that the new Plan has yet to have its examination completed I can only give this limited weight.
11. 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*".
12. 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.
13. To my mind, policy DM4 does not explicitly prevent development outside of the defined village envelope, which is largely drawn tightly around the existing built up area. 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 Maulden and surrounding villages.
14. Furthermore, the existing built form along Clophill Road is largely ribbon development, particularly within Maulden Green End. To my mind, the development of the appeal site would have a very similar character to the existing built form and would not result in any significant harm to the overall character and appearance of the area.

15. It is also noted that the Council consider that the development would not result in the coalescence of different settlements. Whilst the erection of dwellings would result in the development of land between the two parts of Maulden, the low density of the proposal would not lead to any significant harm in this respect. In coming to that view, I acknowledge that the development of a greenfield site would inevitably have some impact on the rural character of the area. However, this would apply to the development of any greenfield site.
16. The Council have also referred to Policies CS14 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.
17. The exact layout, design and landscaping of the site would be considered as part of the submission of reserved matters should I be minded to allow the appeal. Given the amount of development proposed, it would be possible to provide a suitable layout and design which would respect its local context and distinctiveness.
18. Taking all of the above into account, the development would not give rise to any significant harm to the character and appearance of the area.
19. For the above reasons, the development would be broadly consistent with aims and objectives of Policies CS1, CS14, DM3 and DM4 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. It would also accord with the overarching aims of the 2018 Framework.

Affordable Housing

20. Policy CS7 of the CSDMP sets out that for a development of this size at least 35% or more of the residential units should be affordable. It is common ground between the main parties that the development should make provision for affordable housing and I have no reason to disagree with that view. With that in mind, the Appellant has drafted a Unilateral Undertaking.
21. However, the Undertaking before me is undated and therefore incomplete. Even if this was not the case, the undertaking defines the planning permission as being granted by the Council, and that the deed shall only come into effect on the commencement date following the grant of planning permission. In the event that I allow this appeal, the planning permission would not be granted by the Council and therefore the deed would not come into force.
22. Taking the above into account, the Undertaking would not secure the delivery of much needed affordable housing. In the absence of any mechanism to deliver the affordable housing the proposal would be clearly contrary to Policy CS7 of the CSDMP and the 2018 Framework.

Planning Balance

23. The Council consider that they can demonstrate a supply of housing which equates to 5.81 years (at 1 April 2018) although this is disputed by the Appellant particularly when considered against the 2018 Framework.
24. 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 supply¹. From the information before me, it is unclear whether the Council can demonstrate a deliverable 5 year supply of housing.

25. 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 date², 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.
26. 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.
27. Notwithstanding that, the development would still 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.
28. The indicative plans submitted show that the development of the site would provide 14 new dwellings, although given the outline nature of the proposal that number may be higher. The development of the site with new dwellings would clearly contribute towards housing land supply in Central Bedfordshire. However, the benefit of such housing is severely diminished by the lack of provision of affordable housing.
29. Against this background, the harm identified significantly and demonstrably outweighs the benefits when assessed against the policies in the 2018 Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

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

Chris Forrett

INSPECTOR

¹ Including APP/P0240/W/17/3152707 dated 20 November 2017; APP/P0240/W/17/3176444 dated 3 January 2018; APP/P0240/W/17/3176387 dated 9 July 2018; APP/P0240/W/17/3181269 dated 20 March 2018; APP/P0240/W/17/3170248 and APP/P0240/W/17/3172143 dated 12 April 2018.

² Footnote 7 includes situations where the local planning authority cannot demonstrate five year supply of deliverable housing sites.