



Appeal Decision

Site visit made on 25 February 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2020

Appeal Ref: APP/K0235/W/19/3241508

Land adjacent to Midway House, Pavenham Road, Stevington, Bedfordshire

- 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 and Mrs R Ingle against the decision of Bedford Borough Council.
 - The application Ref 18/02520/FUL, dated 1 October 2018, was refused by notice dated 26 June 2019.
 - The development proposed is erection of one single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one single storey dwelling at land adjacent to Midway House, Pavenham Road, Stevington, Bedfordshire, in accordance with the terms of the application, 18/02520/FUL, dated 1 October 2018, subject to the conditions set out at the end of this decision.

Procedural Matters

2. I have used the site address and the description of development as stated upon both the Council's Decision Notice and the appeal form, as opposed to as stated upon the application form. This is because the address given concisely and accurately sets out the site's location, and because the description of development given sets out the proposal in both simple and neutral terms.
3. Since the submission of this appeal, the Bedford Borough Local Plan (January 2020) (the Local Plan) has been adopted by the Council and can now be afforded full weight in decision making. Both main parties to this appeal have had the opportunity to make comments upon the implications of this and I shall consider the appeal accordingly.

Main Issue

4. The main issue is whether or not the proposed design is of exceptional quality, as defined and required under paragraph 79(e) of the National Planning Policy Framework (February 2019) (the Framework), so as to justify the development of an isolated home in the countryside.
5. I acknowledge that the Council, in their reason for refusing planning permission, has cited conflict with the development plan by virtue of the proposal not making a meaningful contribution to supporting the vitality and viability of services and facilities in nearby settlements. Nevertheless, it is my

interpretation of the Council's case that these objections would fall away should it be found that the proposal accords with the requirements of paragraph 79(e) of the Framework. Thus, I shall not address these concerns under a main issue in this appeal but shall return to them under Other Matters.

Reasons

6. Both main parties to this appeal concur that the proposal entails the development of an isolated home. Paragraph 79 of the Framework requires that planning policies and decisions should avoid the development of isolated homes in the countryside unless one (or more) of several specified circumstances apply. These circumstances include where a design of exceptional quality is proposed, which is truly outstanding or innovative, reflecting the highest standards in architecture, and that would help raise standards of design more generally in rural areas. Furthermore, to meet the Framework's criteria, development must significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
7. The appeal site is comprised of a smallholding located in the open countryside away from any recognised settlement. It is used for the rearing of livestock and for the growing of fruit and vegetables. The site contains two timber sheds that are located a short distance back from Pavenham Road, as well as an existing pond (the pond). Notwithstanding the site's close relationship to Midway House, a very scattered and irregular pattern of development is in place along Pavenham Road. This is consistent with the inherently rural character and appearance of the site and its surroundings.
8. No clear cues to the site's brick making past were evident from inspection. However, historic maps of the site clearly indicate that the site was, in the late nineteenth and early twentieth centuries, used for brick making. It would, I understand, have been one of several brickworks capitalising upon the favourable clay-based geological makeup of the local area. The intended use of salvaged and locally sourced bricks would thus make a strong reference to the industrial heritage of both the site and wider area.
9. The scheme, which is part-subterranean, has been designed to appear as a natural continuation of the landscape. Indeed, it would cut into and against the existing sloped topography of the site and would be served by a planted green roof. The building would actively address the pond and the value and the quality this relationship forms a pivotal part of the proposal. Views of the proposed dwelling from outside of the site would be limited, not least due to its setback position relative to Pavenham Road, the intended way in which the site's contours would be used and the presence of various planted field boundaries in the locality.
10. A fundamentally simple and unobtrusive form of development is proposed. Indeed, clean building lines are intended, and brickwork elevations would be laid in a flemish bond further enlivened by a mixture of embossed and perforated finishes. A visually interesting yet understated building is proposed that would be sympathetic to its countryside location and that would not appear as an unduly prominent or jarring addition to the rural landscape.
11. Furthermore, the enhanced planting that is proposed, which I acknowledge would take time to fully establish, would have the effect of softening views. (particularly from a nearby public right of way situated to the west). Whilst

- planting, particularly of trees, would take time to fully establish, it is evident that the proposal has been carefully designed to minimise its landscape and visual effects.
12. In advance of submitting the planning application that is now the subject of this appeal, the appellants, as advised by the Council, utilised the Open Design Review Panel (the ODRP). This review panel was comprised of design experts that included a landscape architect. It is a service that follows the ten principles for design review, as stipulated by the Design Council Commission for Architecture and the Built Environment, that can only be used on projects of significance that warrant public investment in design review and that is focussed on improving quality.
 13. The proposal has been the subject of three separate assessments by the ODRP following an initial site visit. Various comments and suggestions were fed back to the appellants during the assessment process, which have led to the design concept and layout evolving to foster strong functional relationships between internal and external spaces and the fulfilment of the appellants' own needs. It is also the case that a comprehensive landscape strategy has been developed to promote a robust relationship between built and natural features at the site. It was ultimately found, by the ODRP, that the scheme meets the exceptional quality threshold as set out in the Framework. Considering the ODRP's independent nature and standing, I attach significant importance to their advice and findings.
 14. It is apparent that the appellants' personal and individual requirements heavily influenced the scheme's detailed design. In the event the appeal be allowed, it would be neither workable nor reasonable to restrict future occupancy of the dwelling to the appellants only. That said, the proposal is for a dwelling of relatively modest proportions that would be respectful and complementary of the site's use as a working smallholding. These factors/findings would continue to apply whatever the future occupancy arrangements.
 15. The design incorporates a solar chimney system that would provide passive heating and ventilation throughout the building alongside a mechanical ventilation heat recovery system to maximise efficiency as well as flexibility in terms of switching between cooling and heating. The development would achieve Passivhaus sustainability standards and it is relevant to note that the proposal has been designed with energy efficiency very much in mind.
 16. I acknowledge that determining whether or not a proposed design is of exceptional quality is a matter of subjective judgement. Nevertheless, in this case the scheme would actively and elegantly reference the site's past and would respond successfully and discreetly to the landscape character of the area. Indeed, the proposal would integrate with the natural slope of the land and would provide a series of high-quality spaces in proximity to the pond.
 17. I am satisfied that the proposal is truly outstanding. It reflects the highest standards in architecture and would raise standards of design in the local rural area. The proposal would significantly enhance its immediate setting whilst being sensitive to the defining characteristics of the area. The design is thus of exceptional quality, as defined and required under paragraph 79(e) of the National Planning Policy Framework (February 2019) (the Framework), so as to justify the development of an isolated home in the countryside.

Other Matters

18. The appeal site, consistent with being isolated, is situated well away from the nearest designated village settlements of Stevington and Pavenham, which would not be conveniently accessible via a genuine choice of transportation modes. Indeed, whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the proposal conflicts with Policies 2S, 3S, 4S, 7S, 29, 31, 53 and 87 of the Local Plan in so far as these policies set out a spatial strategy that directs limited development to rural areas in line with the existing and potential capacity of infrastructure and services and require that, wherever possible, development should be located and designed to provide convenient access to local services by foot, cycle and public transport.
19. However, I have not been made aware of a development plan policy that relates specifically to proposed development of exceptional design quality in the countryside. The proposal accords with the requirements of paragraph 79(e) of the Framework, which is a policy provision that specifically applies where an isolated home in the countryside is proposed. The Framework is a very important material consideration when considering the merits of rural development proposals designed to meet exceptional standards. Thus, there are material considerations that indicate that the proposal should be determined other than in accordance with the development plan in this case.

Conditions

20. The Council has suggested a number of conditions that the appellants have had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended and/or merged some of them for consistency and clarity purposes and omitted one related to vehicular access gates. Pre-commencement conditions have only been applied where agreed to by the appellants in writing and where necessary to guide initial works on site.
21. In the interests of certainty, a condition specifying the approved plans and documents is required. Where submitted details have been listed as supporting information upon the Council's Decision Notice, I have considered these documents in an informative capacity only and have not listed them as approved documents.
22. In the interests of controlling pollution and safeguarding public safety, a condition is reasonable and necessary that secures an assessment of the site's ground conditions and subsequent remediation and verification if necessary. Alternative wording to the Council's suggested condition has been provided by the appellants, which is concise and fit-for purpose.
23. In the interests of safeguarding biodiversity, a condition that secures an Ecological Mitigation and Enhancement Strategy is both reasonable and necessary. I have amalgamated two of the Council's suggested conditions so as to guard against repetition and have used wording to ensure that the resultant condition offers protection during both the construction and occupational phases of development. I have not specifically referenced an Ecological Assessment compiled by Ecology Solutions and dated July 2019, as referenced in the Council's draft list of suggested conditions, as this does not appear in the evidence before me.

24. To ensure that the character and appearance of the rural area is protected, conditions are reasonable and necessary that secure full details of external facing materials and landscaping. I am satisfied that development could satisfactorily proceed to structural slab level before such details are submitted for approval. This is subject to no existing planting being removed prior to the scheme of landscaping being agreed. It is important that the materials condition offers the Council the opportunity to physically inspect material samples to ensure that a design of exceptional quality is indeed achieved.
25. In the further interests of protecting the character and appearance of the area, a condition securing full details of boundary treatments is required. Given that any treatments would be expected to be erected towards the latter end of the project, submission and approval prior to first occupation is appropriate.
26. In the interests of protecting the environment and guarding against potential flood risk, a condition is reasonable and necessary to secure full details of foul and surface water drainage arrangements as well as their subsequent implementation and retention. I am content that development could proceed satisfactorily to structural slab level prior to the submission and approval of these details. In the interests of guarding against light pollution, a condition requiring full details of any external lighting to be submitted for approval prior to its installation is both reasonable and necessary.
27. To ensure that highway safety would not be prejudiced, conditions related to the construction and specification of the site access are both reasonable and necessary. When noting that the existing access already provides a certain level of visibility in both directions, I am satisfied that full visibility splays are only necessary to secure prior to the first occupation of the development and that any low-level features (up to 0.6m in height) within the splays would not, to any material extent, impede visibility at the junction. The wording of the visibility splay condition reflects these findings.
28. In the interests of ensuring an energy efficient and sustainable development, a condition is required that clearly specifies that the development is to be implemented in accordance with the approved Passivhaus report and that secures the future submission of a final certificate to authenticate this.
29. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Whilst the appellants assert otherwise, I consider that there is clear justification to remove rights related to the erection of fences, gates, walls, extensions, outbuildings and hardstandings. This is because the site occupies a large area in an inherently rural location where further future development could have a harmful influence and could threaten to undermine the exceptional design achievements of the project. As rights are to be removed with respect to the erection of gates and a separate boundary treatment condition is to be imposed, it is not necessary to impose a further condition that directs where vehicular access gates can be installed.

Conclusion

30. For the reasons set out above, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans and documents listed, unless required otherwise by a separate planning condition of this permission: 1788.01.01; 1788.01.02; 1788.01.03; 1788.02.01; 1788.02.02 (V02A); 1788.02.03; 1788.02.04; 1788.02.05; 1788.02.06; 1788.02.07; 1788.02.08; 1788.02.09; 1788.02.10; 1788.02.11; 1788.02.12; 1788.02.13; 1788.02.14; 1788.02.15; 1788.02.16; 1788.02.17; 1788.02.18; 1788.02.19; 1788.02.20; 1788.02.21; 1788.02.22; 1788.02.23; 1788.02.24; 1788.02.25; 1788.02.26; AR-POND001-D-100; AR-POND001-D-101; AR-POND001-D-102; Passivhaus Lite Report V1.5 (June 2018); Preliminary Ecological Appraisal Survey (February 2017); Landscape and Visual Impact Appraisal (May 2017); Landscape and Visual Impact Appraisal – A3 Figures (March 2017); Landscape Strategy (September 2018); Transport Assessment and Sight-Line Assessment U16711402L Version 1.2 (November 2018).
- 3) No development shall take place until an assessment of ground conditions to determine the likelihood of any ground, groundwater or gas contamination of the site has been undertaken. The results of this assessment detailing the nature and extent of any contamination, together with a strategy for any remedial action deemed necessary to bring the site to a condition suitable for its intended use, shall be submitted to and approved in writing by the Local Planning Authority. Any remedial works shall be carried out in accordance with the strategy so approved. The remedial works shall be validated by submission of an appropriate verification report prior to first occupation of the development. Should any unforeseen contamination be encountered the Local Planning Authority shall be informed immediately. Any additional site investigation and remedial work that is required as a result of unforeseen contamination shall be carried out prior to the first occupation of the development.
- 4) No development shall take place, including ground works and vegetation clearance, until an Ecological Mitigation and Enhancement Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include but not be limited to: a) risk assessment of potentially damaging construction activities; b) identification of "biodiversity protection zones" during construction; c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements); d) the location and timing of sensitive construction works to avoid harm to biodiversity features; e) the times during construction when specialist ecologists shall be present on site to oversee works; f) details of responsible persons and lines of communication; g) the role and responsibilities on site of an ecological clerk of works or similarly competent person; h) the use of protective fences, exclusion barriers and warning signs during construction. The Strategy, once approved, shall be implemented in full and complied with at all times.

- 5) No development above slab level or clearance of any existing trees, hedges or shrubs shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscape works, which shall include details of the following: a) a survey of existing trees, shrubs and hedges giving their species, location, height, spread and condition and indicating those which are to be retained and those to be removed; b) planting proposals giving location, species, number, density and planting size; c) areas of grass turfing or seeding and other surface materials; d) details of all hard works including paving materials; e) details of long term management. All planting, seeding or turfing comprised in the approved details of landscape works shall be carried out in the first planting and seeding seasons following the occupation of any building. Any trees or plants, which within a period of 5 years from the completion of the tree planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. For the purpose of this condition a planting season shall mean the period from November to February inclusive.
- 6) No development above slab level shall take place until full particulars of the external materials to be used (to include walls (including material, jointing, pointing and bond of brickwork and coping), roof, doors, windows (including roof lights) and external gutters and pipework) have been provided for inspection (on site where possible) and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 7) No development above slab level shall take place until full details of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage details shall be in accordance with the Council's Supplementary Planning Document for Sustainable Drainage Systems (2018). The development shall thereafter be carried out in accordance with the approved details, which shall thereafter be retained as approved at all times.
- 8) Notwithstanding the approved details, no development above slab level shall take place until full details of the junction of the vehicular access with the highway have been submitted to and approved in writing by the Local Planning Authority. The junction shall have a minimum width of 6m and minimum radii of 6m and shall be constructed to at least base course level prior to development commencing above slab level. The development hereby permitted shall not be occupied until the junction has been fully constructed in accordance with the approved details.
- 9) The development hereby permitted shall not be occupied until the access has been surfaced in a stable and durable manner with a bonded material across the entire width of the access for a distance of at least 12m measured back from the edge of the highway carriageway. Surface water from the access shall not drain to the public highway.
- 10) Prior to the first occupation of the development hereby permitted visibility splays (2.4m x 120m to the north of the site for southbound traffic and 2.4m x 90m to the south of the site for northbound traffic) shall be provided at the junction of the access with the public highway when measured along the centre line of the proposed access from its

junction with the channel of the carriageway and not less than the lengths quoted above measured from the centre line of the proposed access along the line of the nearside channel of the carriageway. Tree canopies shall be raised to 3.5m where required and all parts of the splays shall thereafter be kept free of all obstructions measuring in excess of 0.6m in height when measured above the adjacent carriageway level.

- 11) Prior to the first occupation of the development hereby permitted full details of boundary treatments, including of any vehicular access gates to be installed, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the dwelling.
- 12) The development hereby permitted shall be carried out in full accordance with the approved Passivhaus Lite Report V1.5 (June 2018). Within 6 months of the first occupation of the building hereby permitted, a Passivhaus Final Certificate shall be submitted to and approved in writing by the Local Planning Authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order) (the GPDO), no fences, gates, walls, extensions, outbuildings or hardstandings (Classes A - F of Part 1 and Class A of Part 2, Schedule 2 of the GPDO), other than where expressly authorised by this permission, shall be erected or constructed within the curtilage of the dwellinghouse hereby permitted without the specific grant of planning permission by the Local Planning Authority.
- 14) No external lighting shall be installed on the site except in accordance with an external lighting scheme to be submitted to and approved in writing by the Local Planning Authority.