



Appeal Decision

Site visit made on 15 January 2018

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2018

Appeal Ref: APP/P0240/W/17/3187475

95 High Street, Henlow SG16 6AB

- 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 Keyland Estates against the decision of Central Bedfordshire Council.
 - The application Ref CB/17/03486/FULL, dated 17 July 2017, was refused by notice dated 28 September 2017.
 - The development proposed is the demolition of the existing dwelling at 95 High Street, and the erection of four detached houses with attached garages and associated access and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development on the character and appearance of the area; and,
 - Whether or not the proposed development would preserve or enhance the character or appearance of the Henlow Conservation Area.

Procedural Matter

3. The parties were in dispute whether the Council could demonstrate a 5 year supply of deliverable housing sites which would mean that the policies within the Central Bedfordshire Core Strategy and Development Management Policies 2009 (the Core Strategy) for the supply of housing would not be up-to-date and paragraph 14 of the National Planning Policy Framework (the Framework) should be engaged. The Council have provided a recent appeal decision¹ (the recent appeal) whereby the Inspector concluded at paragraph 58 that, "the Council can comfortably demonstrate a 5 year supply of deliverable housing sites". Thus, the policies for the supply of housing within the Core Strategy remain up-to-date.
4. The Council confirm that Policy CS1 of the Core Strategy defines Henlow as a "Large Village". Policy DM4 of the Core Strategy states that, "Within Settlement Envelopes in Large Villages, small-scale housing and employment uses, together with new retail and service facilities to serve the village and its

¹ APP/P0240/W/16/3152707 dated 20 November 2017

catchment will be permitted". The site lies outside, but adjacent to the Settlement Envelope of Henlow.

5. Notwithstanding this, the appellant maintains that Policy DM4 of the Core Strategy pre-dates the Framework and is not consistent with the Framework in that it excludes development outside settlement boundaries and does not apply a cost versus benefit analysis of proposals which is a defining characteristic of the Framework's overall approach. Consequently, paragraph 14 of the Framework is engaged.
6. I have carefully considered the argument put forward by the appellant. However, it is clear that notwithstanding that Policy DM4 of the Core Strategy seeks to direct development to within Settlement Envelopes, the Council can still demonstrate a 5 year supply of deliverable housing sites. Thus, despite its age, Policy DM4 of the Core Strategy should not be considered out-of-date for that reason. Furthermore, I agree with the Inspector who considered the recent appeal who stated at paragraph 67 that,

"For the same reason, a policy which restricts the location of development to within settlement boundaries in order to protect the countryside from urban encroachment, in this case Policy DM4, should not be considered out of date simply because the settlement boundaries to which it relates were drawn up prior to the Framework or in the context of now out of date housing requirement. The principle of settlement boundaries is not inconsistent with the Framework, which expects planning to take account of the character of different areas recognising the intrinsic character and beauty of the countryside. Provided those settlement boundaries are not preventing the delivery of a supply of housing in line with paragraph 47 of the Framework, which in this case they are not due to the proven existence of a 5 year supply, the policy should not be considered out of date on that point".

7. Consequently, I have determined this appeal on the basis that the Council can demonstrate a 5 year supply of deliverable housing sites and the policies within the development plan for the supply of housing remain up-to-date and are consistent with the Framework. Thus, in this case, paragraph 14 of the Framework is not engaged.

Reasons

Character and Appearance

8. The appeal site forms the rear garden to 95 High Street, Henlow. The existing garden is roughly rectangular in shape and contains a small group of buildings in the southern corner of the site. The land within the site is mainly laid to grass and gently slopes towards the west. In order to facilitate the development the main dwelling would be demolished so that an access into the site could be provided.
9. Henlow is a mixture of dwelling types and sizes with the majority arranged in a linear manner along this part of the High Street. In depth development exists in the area such as the cul-de-sacs at Old Vicarage Gardens, Old Barn Close and Old Orchard View to the south of the site. The area has a pleasant rural quality with agricultural fields immediately to the west of the site. On the whole, the gardens to the rear of dwellings are undeveloped which gives the area an open and spacious character.

10. The appellant argues that the character of Henlow has evolved over time and similar extensions of relatively new high density development have occurred to the west of the High Street and south of the site. Moreover, the site is not within an area defined as having a special landscape and the Landscape and Visual Impact Assessment (LVIA) submitted with the application demonstrates that there are no unacceptable impacts on countryside landscape character, or the character of the settlement, as a result of the development.
11. The purpose of Policy DM4 is to define the boundaries between settlements and the surrounding countryside and to protect the countryside from urban encroachment. Although the site is classified as the garden to the host property, it nonetheless defines the boundary between the settlement and the surrounding countryside, which can be appreciated from the public footpath² to the north of the site.
12. The Framework states at paragraph 58 that planning decisions should aim to ensure that developments respond to local character and reflect the identity of local surroundings. While I acknowledge that in depth development does exist along the High Street, these are quite different in character to the development proposed. Old Vicarage Gardens, Old Barn Close and Old Orchard View have dwellings arranged at the entrance road off the High Street, with further in-depth development created in a linear manner along the internal road that serve the sites. Moreover, the in-depth development at these roads and other similar cul-de-sacs along the High Street are visible as one passes, giving them a direct connection to the High Street.
13. In contrast, the row of 4 substantial detached dwellings would be sited behind the access road, with no direct relationship with the High Street and will not be perceived as a continuation of the High Street as one passes the site. Moreover, the development would result in a substantial built form that would urbanise the site, in contrast to the rural quality that the site provides as a buffer between the village and the adjoining countryside. Additionally, the scale of the dwellings in relation to the size of the site would appear cramped and incongruous when compared to the prevailing more spacious appearance of the area. These adverse effects would be seen by users of the footpath to the north of the site.
14. The proposal would extend the built form of development beyond its existing Settlement Envelope at this part of Henlow, which in turn would urbanise the existing rural character that the current garden provides as it backs onto the open countryside. The proposed development would result in material harm to the character and appearance of the area.
15. I accept that the development could be mitigated through additional landscaping. However, this would take time to establish and cannot be relied upon to become permanent. Moreover, I am not persuaded that the developments along the High Street are so similar as to set an irresistible precedent to find in favour of the appeal.
16. On the first main issue, I therefore conclude that the development would have a harmful impact on the character and appearance of the area. The proposal would be in conflict with Policies DM3 and DM4 of the Core Strategy, the Central Bedfordshire Design Guide 2014 and the Framework which seek,

² Footpath Henlow FP02

amongst other things, to direct development within Settlement Envelopes and to ensure that development proposals contribute positively to creating a sense of place and are appropriate in scale to their setting.

Conservation Area

17. Part of the site lies adjacent to the Henlow Conservation Area (the HCA). However, the building to be demolished to make way for the access is within the HCA. The building is a three storey dwelling that has been remodelled by raising its roof height and using a mixture of materials such as red brick, horizontal boarding and render under a slate roof. The building has full height glazing to the upper floors on the front elevation with a pitched gable roof facing the highway. The building is narrower than the dwellings that sit either side of the building. The Council considers the building to make a positive contribution to the character and appearance of the HCA.
18. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character or appearance of the area.
19. Paragraph 128 of the Framework requires the applicant to describe the significance of any heritage assets affected by a development. Paragraph 131 of the Framework states the need to take account of the desirability of sustaining and enhancing the significance of heritage assets. The HCA is a designated heritage asset and paragraph 132 of the Framework states that great weight should be given to the asset's conservation.
20. The appellant argues that following its remodelling, the building now appears discordant with the neighbouring dwellings and none of the features of the existing dwelling have any architectural similarities with other buildings in the HCA. Thus, the building does not make a positive contribution to the HCA and its demolition will not harm the character or appearance of the HCA. While the building doesn't have similarities with other buildings in the HCA, it does nonetheless make a positive contribution towards the appearance of the HCA in that it is a unique and modernistic addition to the village. Moreover, although set back from the road, it is nonetheless conspicuous in the street scene and adds to the evolution of the HCA and complements the variety of styles and types of dwellings in the village.
21. Therefore, as a result of its positive contribution, the demolition of the building would result in harm to the HCA. The Planning Practice Guidance (PPG) states that "whether a proposal causes substantial harm will be a judgment for the decision taker. However, substantial harm is a high test, so it may not arise in many cases"³. The PPG continues by stating that, "If the building is important or integral to the character or appearance of the conservation area then its demolition is more likely to amount to substantial harm to the conservation area"⁴.
22. The building is not listed and I do not consider it to be integral to the HCA. Consequently, its loss would amount to less than substantial harm. The Framework requires at Paragraph 134 that where a development proposal would lead to less than substantial harm to the significance of a designated

³ Paragraph 017 Reference ID: 18a-017-20140306

⁴ Paragraph 018 Reference ID: 18a-018-20140306

heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use.

23. The appellant states that in the absence of a 5 year housing land supply, providing additional housing is a significant public benefit which outweighs any harm as a result of the demolition of the existing building. However, the Council can demonstrate a 5 year supply of deliverable housing and I do not find the provision of 4 dwellings to be a significant public benefit. Therefore, limited evidence has been provided to demonstrate that there would be a public benefit from allowing the building to be demolished which would outweigh the great weight that the Framework requires to be given to the conservation of heritage assets.
24. I therefore conclude that the development would fail to preserve or enhance the HCA. The development is therefore contrary to Policies DM3 and DM13 of the Core Strategy, the Central Bedfordshire Design Guide 2014 and the Framework which seek, amongst other things, to ensure that inappropriate development proposals respect and complement the context and setting of all historically sensitive sites, particularly those that are designated.

Other Matters

25. The appellant has referred to a number of appeal decisions. The appeal decision at Appendix 2⁵ of the appellant's written statement of case has been quashed by the High Court. A further decision⁶ was also referred to which allowed a development of up to 50 dwellings on land outside of a settlement boundary, despite the Council in question being able to demonstrate a 5 year supply of deliverable housing. However, although the site was outside the settlement boundary, local plan policies permitted affordable housing as an exception, which was part of the proposed development. Moreover, the Inspector did not find the proposal to harm the character and appearance of the area.
26. I acknowledge that the Council's housing trajectory makes an allowance for windfall sites, which it relies upon to boost its supply of housing. In addition, a significant gap between Henlow and Clifton would remain. I also note that the design of the dwellings could reflect the local vernacular and suitable materials could be employed. However, neither this nor any other material consideration that has been advanced outweighs the harm that I have identified above.

Conclusion

27. For the reasons given above, and having regard to the development plan when read as a whole, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR

⁵ APP/P0240/W/16/3166033 dated 21 August 2017

⁶ APP/V2635/W/16/3166074 dated 20 December 2017