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## Appeal Decision

Site visit made on 21 June 2018

by Luke Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> July 2018.

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Appeal Ref: APP/K0235/W/17/3189914

Traylesfield Farm, Traylesfield Farm Lane, Ravensden MK44 2SA

- 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 David Gwynne against the decision of Bedford Borough Council.
  - The application Ref 17/02140/FUL, dated 21 July 2017, was refused by notice dated 10 November 2017.
  - The proposal is the development of a barn to a dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the development of a barn to a dwelling at Traylesfield Farm, Traylesfield Farm Lane, Ravensden MK44 2SA, in accordance with the terms of the application, Ref 17/02140/FUL, dated 21 July 2018, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

### Application for costs

2. An application for costs was made by Mr David Gwynne against Bedford Borough Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue is whether the proposal would represent sustainable development in respect of its location.

### Reasons

4. The site contains a large barn which is within the Rural Policy Area as defined by the Bedford Borough Core Strategy and Rural Issues Plan 2008 (the Core Strategy) and outside of the Settlement Policy Area boundary identified in the Policies Map 2014. The site is therefore within the open countryside where saved policy H26 of the Bedford Borough Local Plan 2002 (the Local Plan) resists planning permission being granted for housing.
5. Policy CP13 of the Core Strategy permits development in the countryside only if it would be consistent with national policy, particularly PPS7<sup>1</sup>. However PPS7 was superseded by the National Planning Policy Framework (the Framework) in March 2012 and accordingly the Council have referred to paragraph 55 of the Framework in their case instead. Paragraph 55 seeks that housing is located

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<sup>1</sup> Planning Policy Statement 7: Sustainable Development in Rural Areas, (3 August 2004)

where it will enhance or maintain the vitality of rural communities and seeks that new isolated homes in the countryside are avoided unless special circumstances apply.

6. Policy CP14 of the Core Strategy states that where there is a proven need for development to be located in the Rural Policy Area, most new development will be focussed in or around the edge of key service centres where employment, housing, services and other facilities can be provided close together.
7. Considering the above policy context, it is clear from my site visit the appeal site is within the open countryside and is a considerable distance from existing service centres and other homes save for the existing Traylesfield farmhouse. There is no evidence before me that any of the special circumstances set out in paragraph 55 of the Framework apply in this case and the appeal proposal does not comply with the policies of the development plan set out above.
8. Planning law<sup>2</sup> requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, approval has already been given for the existing barn on the appeal site to be converted to a dwelling<sup>3</sup>. This is a material consideration which I must take into account. Based on the evidence<sup>4</sup>, the appeal dwelling proposed is the same except that a larger curtilage has been added to provide better parking and landscaping for the occupants of the dwelling as well the addition of a flue for a wood-burning stove. The footprint of the appeal dwelling proposed is smaller than that already approved.
9. The Council agrees that the existing permission is a potential fallback position but considers little weight should be afforded to it as the appeal proposal is different, because the appellant has not provided evidence the fallback position would be likely to be implemented and because the extant permission is not to the liking of the appellant. However, permission has been granted for further agricultural buildings at Traylesfield Farm. The appellant indicates these are to accommodate the storage functions of the existing barn in readiness for its conversion and this is evidence the fallback position would be likely to be carried out.
10. Given that permission already exists for a dwelling on the appeal site, given that dwelling is substantively the same as that proposed in the appeal scheme, and given preparations have been made to relocate the storage functions of the existing barn, I consider there is a greater than theoretical possibility that the development already approved might take place. Given the similarity of the two schemes, and in light of the Mansell case<sup>5</sup>, I consider the fallback position in this case a significant material consideration to justify a departure from the development plan policies identified above. I ascribe the fallback position significant weight and consider these are special circumstances because if the appeal proposal were not successful it is highly likely the permission already granted would be carried out. The permitted scheme would be no less sustainable in terms of its location than the appeal scheme.

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<sup>2</sup> S38(6) of The Planning and Compulsory Purchase Act 2004 and s70(2) of The Town and Country Planning Act 1990

<sup>3</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q, Bedford Borough Council reference 15/02765/CPNQ

<sup>4</sup> Paragraph 2.7 of the Council's planning officer report

<sup>5</sup> Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314

11. Furthermore, the Council identify that the appeal scheme is of a design that is a higher quality than that already approved and would result in a reduction in the overall footprint of the existing building which would be an enhancement on the existing situation, reducing the bulk and resulting in materials more appropriate for the setting of the nearby listed farmhouse on Traylesfield Farm.

#### Other Matters

12. The Council has referred to recent appeal decisions to demonstrate that other Inspectors have found Core Strategy Policy CP14 to be consistent with the NPPF. I have found the appeal scheme to be contrary to this policy but I have given more weight to the extant approval as a significant material consideration. Furthermore, weighed against the material consideration of the extant permission, whether or not the Council has a 5 year land supply has not been a determinative factor in this appeal.

#### Conditions and Conclusion

13. The Council has suggested a number of conditions which I have considered taking account of advice in the National Planning Policy Framework and Planning Practice Guidance. As a result I have amended some of them for consistency, enforceability, clarity and reasonableness. Condition 2 is necessary in the interests of proper planning and to ensure that the development is carried out as approved. Conditions 3, 4 and 5 are required to ensure that the proposal has an appropriate impact on the character and appearance of the area.
14. Conditions 6 and 7 are required to ensure that there is sufficient space for parking. Drawing 200-00A shows space for car parking has already been identified and the Council did not raise an objection to this element of the scheme. Further details are therefore not required but condition 6 ensures the car parking is provided before the new dwelling is occupied. Condition 8 is necessary as the bin storage area shown on drawing 200-00A is not adjacent to the public highway.
15. Subject to these conditions and for the reasons given above the appeal should succeed.

  
INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered existing floorplan, unnumbered existing north and south elevation, unnumbered existing east and west elevation, 200-00A, 200-02 and 200-03.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 4) No development shall commence until 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:
  - i) 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;
  - ii) planting proposals giving location, species, number, density and planting size;
  - iii) the relationship of new planting to buildings, roads, footpaths, drains and location of all underground and overground services;
  - iv) areas of grass turfing or seeding and other surface materials;
  - v) depth of topsoil to be provided where necessary and the measures to be taken to maintain the new planting for the required period;
  - vi) hard surfacing materials;
  - vii) details of the long-term management and maintenance proposals for the new planting; and
  - viii) all boundary treatments, screen walls and fences including a timetable for their implementation.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with the approved scheme of management and maintenance.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. 200-00 for 3 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

- 7) The dwelling shall not be occupied until space has been laid out within the site for 5 bicycles to be parked in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority and that space shall thereafter be kept available for the parking of bicycles.
- 8) The dwelling shall not be occupied until a bin collection point that can accommodate 2 x 240 litre bins adjacent to the public highway has been provided in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The bin collection point shall thereafter be retained.