



SHERINGTON PARISH COUNCIL

Statement

Outline application with all matters reserved for a
development of up to 16 dwellings

Land off Bedford Road

Sherington

Milton Keynes

MK16 9NG

Appeal Reference: APP/Y0435/W/17/3187496

Application Reference: 16/02217/OUT

On the behalf of

Sherington Parish Council

January 2018

Reference: 16400-R07 v1

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Appendix 1: Sherington Parish Council objection to the planning application, Dated 1st February 2017

1. Introduction

1.1 The following statement has been prepared on behalf of Sherington Parish Council in response to the appeal submitted by Trustees for the Cook Settlement in relation to land off Bedford Road, Sherington.

1.2 The planning application subject to this appeal (Application Reference. 16/02217/OUT) was submitted on the 5th August 2016 and sought the following form of development:

“Outline application with all matters reserved for a development of up to 16 dwellings.”

1.3 Several objections were made to the planning application, including an objection by the Parish Council. A copy of this objection can be found attached at **Appendix 1**. The Highways Officer also raised concerns regarding the proposed access arrangements and objected to the application. These concerns were not addressed during the consideration of the application and remain outstanding. Highway concerns on pedestrian access were addressed late in application process by the addition of a new proposed footway along Bedford Road, without further reference to consultees, including Historic England.

1.4 Furthermore, serious concerns were eventually raised by Historic England in relation to the impact that the development and the proposed footpath creation could have on the setting of a scheduled ancient monument, Sherington Round Barrow to the north west of the proposed development. The application has still not incorporated the recommendations made by Historic England.

1.5 Despite these objections and concerns, the application was reported to planning committee on the 2nd February 2017 with a recommendation for approval, subject to conditions and the completion of a legal agreement. The application was deferred at that meeting and heard again by the Development Management Committee on the 30th March 2017. The application was refused, and a decision was issued on the 21st April 2017.

1.6 A single reason for refusal was given, which stated that:

“The proposed development by virtue of its location outside of the settlement boundary would result in residential development in the open countryside which would have a negative impact on the rural character and openness of this part of Sherington. The proposal is therefore contrary to saved Policy S10 (open countryside) of the Milton Keynes Local Plan 2001-2011 and Policy CS9 of the Core Strategy 2013.”

1.7 An informative was added to the decision notice, indicating that:

“The applicants are advised that the Development Control Committee considered that the proposal undermined the integrity of the Sherington Neighbourhood Plan, in particular the requirements of Policy NP1. Had the Plan been made, this would have been included within the reason for refusal.”

1.8 The Sherington Neighbourhood Plan was formally adopted on the 18th October 2017.

2. The Site and Proposals

- 2.1 The appeal site is outside of the defined settlement boundary of Sherington in open countryside. The countryside here is defined by the Milton Keynes Local Plan as an Area of Attractive Landscape. The landform is rolling topography, with the land rising to the east and south.
- 2.2 The site is clearly visible from public footpaths and a bridleway, and would be apparent in long distance views from Chicheley Hill.
- 2.3 A Bowl Barrow Scheduled Ancient Monument is situated opposite the junction of Crofts End and Bedford Road, which would be in line of sight with the appeal site, which forms part of the open setting and historic context of this important local heritage asset.
- 2.4 In terms of the surrounding area, the appeal site is located 420 metres from the village school. The other village amenities are more distant, with the White Hart PH being 675 metres away and the village store an 850 metre walk from the appeal site entrance. Walking access to the village facilities would depend upon the provision of new footpaths along Bedford Road to allow safe pedestrian access. Such new footpaths would have a significant impact on the Round Barrow Scheduled Ancient Monument and will urbanise the approach to the village.
- 2.5 This is a peripheral location to the village and is not as conveniently located or as well connected as the appellants have suggested in their statement of case.

The Proposed Development

- 2.6 The proposed development involves the construction of 16 new dwellings, of varying sizes and including affordable housing.
- 2.7 It is recognised that the application has been made in outline with all matters reserved for future consideration. However, it is also clear from the consultation responses from the Highways Officer and the Landscape Officer at Milton Keynes that there is an underlying conflict with the suggested layout and the land available within the red line.
- 2.8 The Landscape Officer has requested additional screening and hedgerows to the site frontage, with additional planting within the development to help screen and mitigate the adverse impact on the landscape. However, such changes to the layout would conflict to a degree with the requirements of the Highway Officer, who requested that the visibility splays along Bedford Road are increased, necessitating the removal of additional hedgerows.

- 2.9 Should the hedgerow to the site frontage be removed to provide the visibility splay, then the hedgerow would need to be replanted within a suitable set back distance, 4 metres has been suggested by the Landscape Officer. This would severely intrude into the developable area, to a point where the indicative layout or a scheme of a similar nature would be undeliverable.
- 2.10 There is therefore considerable doubt that this scheme can be delivered in this form and a very real concern that this application will lead to further subsequent applications seeking expansion into the field to the rear, once the principle of development on the frontage has been established.

3. Summary Policy Review

- 3.1 It is not intended to rehearse the national planning policies here or those contained within the Milton Keynes Local Plan.

The Local Plan and Plan:MK

- 3.2 We would highlight that Plan:MK has progressed following the submission of the appeal and has been subject to further public consultation which ended in December 2017. It is anticipated that Plan:MK will be submitted for examination and adopted during 2018.
- 3.3 It is understood that Milton Keynes Council have a demonstrable 5-year land supply, and that this is being tested at present through three separate planning appeals. A decision on these appeals is awaited, but when the first one is released, it will have a bearing on all other outstanding appeals in the Borough where this issue is relevant.
- 3.4 At the time of the appeal application being reported to planning committee the five-year housing land supply had recently been achieved, this was one of the first applications considered after the fact.
- 3.5 The planning officer's recommendation, as set out in the committee report, was heavily influenced by the lack of a demonstrable five-year housing land supply at the time of writing, a factor that was resolved between the application being originally reported to committee and subsequently determined.
- 3.6 The committee report was not updated to reflect this, but this change in circumstance was a key factor that led members to overturn the recommendation and refuse planning permission.

Sherington Neighbourhood Plan, October 2018

- 3.7 At the time of the appeal application being reported to planning committee, the Neighbourhood Plan was relatively advanced and was being reviewed by an independent examiner. The planning officer's report gave little weight to the policies it contained.
- 3.8 That situation has now changed. The Neighbourhood Plan was adopted in October 2017, making the document part of the formal part of the development plan. The referendum was strongly supported with a 49% turnout of parishioners, 97% of whom voted in support of the adoption of the Neighbourhood Plan, an overwhelming level of support.
- 3.9 The Neighbourhood Plan represents the most up-to-date and fine-grained policies, prepared specifically for Sherington. The Plan reflects the communities wishes that have evolved and been refined over an extensive consultation process.

- 3.10 The Neighbourhood Plan makes provision for new housing development on new sites around the village, including land at the High Street (Policy NP7) for 36 dwellings and land at Water Lane (Policy NP8) for 9 dwellings. In addition, allowance is made for selected windfall development within the defined settlement boundary subject to certain criteria (Policy NP1). Overall, the Neighbourhood Plan allocates a total of 45 dwellings and makes provision for select infill development to achieve future growth.
- 3.11 The Neighbourhood Plan will be reviewed at appropriate intervals to ensure that it continues to be prepared in accordance with other emerging policies in Milton Keynes.
- 3.12 Sherington was identified in Policy CS1 of the Core Strategy as a Selected Village, where development of 20 to 40 dwellings was expected over the plan period. The Neighbourhood Plan allocations exceed the upper figure included in the Core Strategy by a clear margin. The Neighbourhood Plan has robustly addressed housing requirements commensurate to the scale of the village, and it is evident that the community as a whole have embraced and supported more new housing in their plan, compared to that envisaged by the Core Strategy.
- 3.13 The recent adoption of the Neighbourhood Plan, and the allocations contained therein, are material circumstances that have changed the planning policy framework compared to the situation when the planning officer originally compiled the committee report.
- 3.14 Neighbourhood Plan Policy NP1, Sherington Settlement Boundary and Development Principles, specifies that:
- “Development proposals outside of the settlement boundary will only be supported if they comply with the provisions of the Sherington Neighbourhood Plan and Milton Keynes Development Plan in respect of development in the countryside.”*
- 3.15 The appeal application site was not allocated by the Neighbourhood Plan for development, although it was one of several opportunity sites that had been considered. It became clear that the community only supported development on the High Street site (which had already been allowed at appeal) and the Water Lane site (a brownfield location). The loss of further greenfield land to housing outside of the settlement boundary was not supported, leading to the appeal application site alongside other greenfield locations being discounted.
- 3.16 The Ministerial Statement on Neighbourhood Planning, dated December 2016, highlights that:
- “I am today making clear that where communities plan for housing in their area in a neighbourhood plan, those plans should not be deemed to be out-of-date unless there is a significant lack of land supply for housing in the wider local authority area.”*
- 3.17 The Minister continues to state:

“This means that relevant policies for the supply of housing in a neighbourhood plan, that is part of the development plan, should not be deemed to be ‘out-of-date’ under paragraph 49 of the National Planning Policy Framework where all of the following circumstances arise at the time the decision is made:

This written ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less;

the neighbourhood plan allocates sites for housing; and

the local planning authority can demonstrate a three-year supply of deliverable housing sites.”

3.18 In this instance, the Neighbourhood Plan is less than 2 years old, it has allocated sites for housing above and beyond that envisaged by the Core Strategy and the Local Planning Authority can deliver at least 3 years housing land supply, they would argue the case for a 5-year land supply.

3.19 In such circumstances, relevant policies for the supply of housing in the Neighbourhood Plan should not be deemed out of date under Paragraph 49 of the National Planning Policy Framework.

3.20 On this basis, Neighbourhood Plan Policy NP1 and Local Plan Policy S10 and Core Strategy Policy CS1 apply and would prevent housing development in the countryside.

3.21 The National Planning Practice Guidance [Paragraph: 083 Reference ID 41-083-2017810] further advises that:

“In this situation, when assessing the adverse impacts of the proposal against policies in the Framework as a whole, decision makers should include within their assessment those policies in the Framework that deal with neighbourhood planning. This includes paragraphs 183 to 185 of the Framework and paragraph 198.”

3.22 Paragraph 198 of Framework states that:

“Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. In determining applications, decision makers should take into account the impact of granting permission for an application that conflicts with a neighbourhood plan.”

(My emphasis)

4. Response to the Council's Reason for Refusal

- 4.1 As we have highlighted above, the Neighbourhood Plan has been recently adopted and is in accordance with the Ministerial Statement. The test of housing land supply should therefore be on a 3-year basis and not over 5 years.
- 4.2 Notwithstanding that point, Milton Keynes Council are confident that a 5-year housing land supply can be achieved. In that context, there is every expectation that a solid and robust 3-year housing land supply could be demonstrated.
- 4.3 In this instance, and despite referring to the Ministerial Statement in their statement of case, the appellants have failed to recognise that the incorrect housing land supply threshold has been applied.
- 4.4 At the time of writing, we have not had sight of the evidence relating to the rural character and openness of this part of Sherington. Nevertheless, from our local knowledge and feedback from many long-standing residents of the village, we would argue that the appeal site is a key part of the rural edge of the village, and forms part of the setting of the scheduled ancient monument.
- 4.5 It is evident that the development of the site for housing has raised concerns with both the landscape officer and Historic England regarding the potential impacts that the scheme would have on this rural character and setting of the heritage asset.
- 4.6 We would add that the creation of a new access to highway design standards, removal of hedgerows, creating of new footpaths where there are currently none will all contribute to a significant and detrimental urbanising effect. The approaches to Sherington are all an important part of the rural character of the village, bring the countryside into the fabric of the settlement. The appeal proposals will create an extended ribbon of development into the countryside, to the detriment of this southern gateway to the village.

5. Planning Conditions and Section 106 Obligations

- 5.1 Without prejudice to our position in opposition to this application, the Parish Council would welcome the opportunity to input into the unilateral undertaking to ensure that should this appeal be determined favourably.
- 5.2 It is essential that housing imposed upon the village residents plays a part in supporting the community should such a scenario come about.

6. The Planning Balance and Conclusion

- 6.1 The development plan policies that seek to protect the countryside from speculative development are entirely relevant to the determination of this appeal. The neighbourhood plan has allocated more housing for Sherington than that suggested by the Core Strategy, and these housing allocations, coupled with windfall development within the settlement boundary are sufficient to meet the local housing needs for the plan period.
- 6.2 We recognise that there is a need for market and affordable housing in Milton Keynes District. This need is addressed through strategic allocations and existing planning permissions. There is no requirement to impose further housing on small, rural communities, particularly as is the case here, when there is a recently adopted Neighbourhood Plan.
- 6.3 The appeal proposals would harm the approach to the village and would have a significant urbanising effect on this important rural gateway. They would also be visible within the setting of an important scheduled ancient monument and would detract from the rural context of that setting, which has already been eroded to a degree by past development and Bedford Road. Adding the footpaths and relocating hedgerows will only exacerbate this effect.
- 6.4 Furthermore, it is apparent that safe access on foot from the site to the village amenities would be dependant upon the construction of new footways which would have a direct impact upon the Bowl Barrow Scheduled Ancient Monument.
- 6.5 The construction of these footways and planting of new set back hedgerows would also involve land that is not adopted public highway and was not included within the red line area submitted with the planning application, nor are they referred to in the description of the development. This represents a lack of clarity in the application and the extent of works being proposed.
- 6.6 There is harm caused by this proposal. There is no need for additional housing allocations to be made in Sherington and the Neighbourhood Plan should be allowed to protect the countryside beyond the defined settlement boundary from development.
- 6.7 We respectfully request that the appeal is dismissed.

Appendix 1:

Sherington Parish Council objection to the planning application

Dated 1st February 2017

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Our Ref MJS/M-00466612
Date 1 February 2017

Delivered: By E-mail

Dear Madam

**PLANNING APPLICATION 16/02217/OUT
LAND AT BEDFORD ROAD, SHERINGTON**

We act for Sherington Parish Council in this matter.

Our client is concerned that planning application 16/02217/OU for up to 16 dwellings on land off Bedford Road, Sherington is to be recommended for approval by the Council's Development Control Committee on Thursday 2 February 2017 with material amendments to the scheme which have not been properly assessed or consulted upon.

The amendments, which were submitted by email on 23 December 2016 (and only posted on the portal on 16 January 2017), comprise the creation of a new footway along Bedford Road to its junction with Croft Road. From the Applicant's email and plans, it is apparent that:

1. The new footway would be created on land both outside the redline application boundary and the limits of the adopted public highway;
2. The new footway will have a potentially significant impact on the Bowl Barrow Scheduled Ancient Monument at the junction of Croft Road and Bedford Road, which has neither been assessed nor consulted upon;
3. The new footway is, in any event, a significant amendment to the scheme both in terms of the relative scale of the proposed development and the location of the site which lies beyond the settlement boundary in the open countryside;

Given the significance of the amendments, it would be both procedurally improper and contrary to planning policy for the Application to be determined without the amendments being subject to full and proper assessment, consultation and consideration. For these reasons, we respectfully urge the Council to withdraw the application from the Committee agenda and defer its determination until the necessary assessment and consultation has been done.

Unless appropriate assessment is undertaken, considered and consulted upon, any decision by the Council to grant planning permission pursuant to the Application would be fundamentally flawed and open to challenge.

The Amendments

The footway is, we understand, necessary in order to make the Development acceptable. It was introduced as a change to the scheme in order to overcome an objection from Highway officers. It is therefore an essential part of the scheme which members will be asked to consider.

According to correspondence from the Applicant, the new footway would be constructed on land beyond the boundary of the existing public highway. The land is owned by the Applicant, but outside the redline boundary of the Application Site.

Creation of the footway would, we understand, involve the removal of existing verge bank and hedgerow and laying paving alongside what is currently a country lane.

The footway would therefore have an urbanising effect on the approach to the village, which will undoubtedly have an impact on the character and appearance of the village as a whole as well as the immediate vicinity of the Site and Bedford Road.

Furthermore, the footway would be constructed adjacent to a Scheduled Ancient Monument.

The Ancient Monument

There are two Scheduled Ancient Monuments in Sherington as well as thirty-five Grade II Listed Buildings and one Grade I Listed Building.

Of these, the closest to the application site and most likely to be affected by the application is Bowl Barrow at the junction of Crofts End and Bedford Road, which is scheduled under the Ancient Monuments and Archaeological Areas Act 1979.

The list entry (reference 1010190) records that bowl barrows "...are funerary monuments dating from the Late Neolithic period to the Late Bronze Age, with most examples belonging to the period 2400-1500 BC. They were constructed as earthen or rubble mounds, sometimes ditched, which covered single or multiple burials....Often occupying prominent locations, they are a major historic element in the modern landscape and their considerable variation of form and longevity as a monument type provide important information on the diversity of beliefs and social organisations amongst early prehistoric communities. They are particularly representative of their period and a substantial proportion of surviving examples are considered worthy of protection."

The list entry also records (with emphasis added) that this particular barrow "...lies in the angle between Crofts End road and Bedford road on ground falling to the west....The perimeter of the north-east quadrant of the mound is overlain by the field boundary, the mound extending into the road verge as a slight ground rise. Remnants of the surrounding ditch, from which material was quarried during the construction of the mound, are visible as a low earthwork 2m wide and 0.1m deep around the south and east sides of the mound. Elsewhere it survives as a buried feature of similar width."

Policy Requirements

The conservation of the historic environment is a central tenet of the National Planning Policy Framework (NPPF) and therefore a material consideration in the determination of planning applications.

One of the 12 core planning principles (listed in paragraph 17 of the NPPF) requires that planning should "conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations"

Paragraph 128 of the NPPF requires (again with emphasis added) that “in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting....As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary...”

Paragraph 129 requires that “local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise...”

The weight which the local planning authority should attach to conserving the asset is set out in paragraphs 131 to 134 of the NPPF. Paragraph 132 states that “great weight should be given to the asset’s conservation...as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification...Substantial harm or loss of designated heritage assets of the highest significance, notably scheduled ancient monuments, protected wreck sites, battlefields, grade I and II* listed buildings registered parks and gardens, and world heritage sites, should be wholly exceptional.”

Under paragraph 133, “where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...”

It is therefore absolutely clear that if the Development would or would potentially have an impact on the Barrow or its setting then the impact must be thoroughly assessed and appropriate expert advice should be sought to enable the Council to determine the significance of the impact and whether planning permission should be refused.

Potential Impact of the Development

In our submission, the proximity of the Development Site to the Barrow is, by itself, sufficient to warrant that consideration be given to the potential impact on its setting and also to the possibility of disturbance to any archaeology associated with the Barrow.

However, a particular need for consideration arises in this case through the late introduction to the scheme of a footway along the West side of Bedford Road and around the corner of its junction with Crofts End in the location of the Barrow and where it extends into the road verge.

In this regard, it seems to us clear from simple observation of the plans of the proposed new footway that the works to create the footway would potentially disrupt and damage the Barrow as well as affect its setting.

Need for Further Assessment

No consideration is given to the potential impact of the development on the Monument in the Design and Access Statement that was submitted with the Application and no additional work has been undertaken to assess the impact of the footway. Indeed, we note that at paragraph 2.5 of the DAS, the Applicant’s agent reports that “there are no nearby listed buildings. There is no known archaeology in relation to the site.” The proximity of the site to the Monument is therefore not acknowledged in the application and no consideration is given to it.

The potential impact of the Development on the Barrow is also not considered in the Committee Report. The Barrow is not mentioned in the report and no consideration is given to heritage matters more generally.

It is therefore essential that appropriate assessment is undertaken in accordance with the requirements of the NPPF and relevant policies of the Development Plan.

Need for Further Consultation

The fact that the footway will involve the development of land outside the application site, which is not public highway calls into question whether the footway can actually be approved as part of the current application. It does, in any event, require the application (as amended) to be re-advertised and re-consulted upon if full in order that the public and relevant consultees are aware of the nature and extent of the development proposed.

More particularly, given the potential impact of the amendment on the open countryside, the character and appearance of the village and on the Scheduled Ancient Monument is vital the amendments be subject to full and proper consultation by all relevant statutory consultees including Heritage England, the Council's own landscape, heritage and archaeology officers and the Parish Council.

It would also be appropriate for officers and members to undertake a site visit before any decision is made.

The Report to Committee includes no record of any consultation of Heritage England on the original Application or the amendment. Indeed, we note that Heritage England have written to you by email dated 20 January 2017 specifically to request that they be consulted because "it affects the setting of [the Barrow] and could also affect the Moated site known as Caves Manor immediately east of the Manor House".

Summary

For all the reasons given in this letter, it is clear that the Application should not be reported to committee for determination unless and until a proper assessment has been carried out in accordance with the requirements of the NPPF and until Heritage England and other relevant consultees have been properly consulted. If the application is approved without such assessment and consultation, the Council's decision would be plainly contrary to the NPPF and unlawful.

We would therefore be grateful if you could confirm by reply that the application will be withdrawn from the agenda for the Development Control Committee on 2 February and that determination will be deferred pending further consultation and receipt of the required assessment.

Yours faithfully

SHOOSMITHS LLP

cc Anna Rose, Director of Planning and Transport
Cllr Andrew Geary, Chair of Development Control Committee
Sharon Bridglalsingh, Head of Legal Services