



Appeal Decision

Inquiry sitting days held on 8-11 March 2016

Site visits made on 7 and 11 March 2016

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 April 2016

Appeal Ref: APP/K0235/W/15/3005128

Land to the east of Box End Road, Box End Road, Kempston Rural, Bedford, Bedfordshire, MK43 8RW.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Haut Ltd and Taylor Williams Development Limited against the decision of Bedford Borough Council (the LPA).
- The application Ref.14/01201/MAO, dated 9/5/14, was refused by notice dated 20/8/14.
- The development proposed is residential development with associated landscaping, car parking and open space.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made with all matters, except access, reserved for subsequent consideration. At the Inquiry, the appellant requested that access should also be reserved. I agree with both main parties that this change would be unlikely to prejudice the interests of any party and have determined the appeal accordingly. I have treated the indicative layout plan, which shows an access onto Box End Road and eleven dwellings¹, as being illustrative only.
3. In determining the appeal I have taken into account the Statement of Common Ground (SoCG) that has been agreed by the main parties. Whilst not forming part of the SoCG, the main parties also agree that: there is no up-to-date housing requirement within the development plan and; the proposal would conflict with the provisions of the development plan when the development plan is considered as a whole.
4. There is an extant planning permission for the erection of a 66 bedroom hotel with leisure and conference facilities (the hotel permission) on the appeal site (ref. TP/89/605). I shall return to this matter under the fallback below.
5. The Inquiry was closed in writing on 14 March 2016.

¹ The main parties agreed that if permission was granted a condition should be attached limiting the development to a maximum of 11 dwellings.

Main Issue

6. The main issue is whether a five year supply of housing exists within the Borough and, if so, whether the benefits of the proposed development would outweigh any adverse impacts, having particular regard to the likely effect upon the setting of the Grade II* listed building know as Box End House and any conflict with planning policies aimed at encouraging sustainable modes of transport and protecting the character of the countryside.

Reasons

Planning Policy

7. The development plan² includes the 'saved' policies of the Bedford Borough Local Plan 2002³ (LP) and the Bedford Borough Core Strategy and Rural Issues Plan 2008 (CS). The most relevant policies to the determination of this appeal are: LP policies BE21 (settings of listed buildings), BE30 (a 'checklist' of development management matters, including access by modes other than the car), H26 (housing in the open countryside) and; CS policies CP1 (spatial strategy), CP2 (sustainable development), CP13 (development in the countryside), CP14 (development in the Rural Policy Area) and CP23 (heritage).
8. LP policy BE21 and CS policy CP23 are broadly consistent with the provisions of Section 12 of the National Planning Policy Framework (the Framework). However, the statutory duty⁴ regarding the settings of listed buildings refers to preserving rather than "*protecting*" the setting of a listed building and the Framework includes a requirement to weigh any harm to the significance of a heritage asset against the public benefits of a proposal.
9. LP policy BE30 is consistent with the core principle of the Framework for making the fullest possible use of public transport, walking and cycling. LP policy H26 is consistent with the Framework insofar as it accords with the aim of avoiding isolated homes in the countryside. However, there is some tension between this policy of restraint and the provisions of the Framework that seek to promote sustainable development in rural areas.
10. In seeking sustainable levels, locations and forms of development CS policy CP1 accords with the Framework. However, that part of the policy which refers to the now revoked East of England Plan and the Milton Keynes & South Midlands Sub-Regional Strategy is at odds with the Framework. CS policy CP2 is consistent with the Framework. In only permitting development in the countryside where it would be consistent with national planning policy CS policy CP13 accords with the Framework. As PPS7 has since been cancelled the reference to this former policy is at odds with the Framework.
11. The appeal site lies within the Rural Policy Area and forms part of the countryside around Bedford. In promoting a sustainable development strategy in rural areas CS policy CP14 is broadly consistent with the Framework. However, there is some tension between the reference to "*key service centres*" in CP14 and the "*groups of smaller settlements*" referred to in the Framework.

² Whilst my attention has also been drawn to the adopted Allocations and Designations Local Plan 2013 (ADLP), the LPA's reasons for refusal do not identify any conflict with this Plan and its planning witness informed me that this Plan was not determinative to the outcome of this appeal.

³ The LP was intended to cover the period up to 2006.

⁴ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

12. At the Inquiry, the planning witnesses for the main parties agreed that LP policy H26 and CS policies CP13 and CP14 were policies for the supply of housing.
13. The Bedford Borough Local Plan 2032 (eLP) is at a very early stage and is not determinative to the outcome of this appeal. This eLP is being informed, amongst other things, by the 'Objectively Assessed Need for Bedford: An evidence base for establishing overall housing need' dated 2015 (OAN) and the 'Hotel Futures Update 2014 Final Report' (HFU) dated 2015.
14. The OAN was prepared by Opinion Research Services on behalf of the LPA and takes into account the Strategic Housing Market Assessment (SHMA). The SHMA identified an Objectively Assessed Need (OAN) for 17,367 dwellings over the period 2012-32, an average of 868 dwellings per year (dpa). In due course, the SHMA, OAN and HFU will be tested as part of the Examination into the eLP. These reports can be given limited weight in determining this appeal.

Benefits

15. On behalf of the appellant, I was informed that the totality of the benefits advanced in support of the appeal comprises: the provision of additional housing to help address a claimed shortfall in housing land supply (HLS) in the Borough; the provision of some affordable housing (30%) to assist in meeting the housing needs of the local community; the opportunity to create a landscaped area alongside Box End House and; a better form of development than the hotel permission. The proposal would also support jobs in the construction industry. I shall consider each of these below.

Housing Land Supply

16. The Government attaches considerable importance and weight to meeting the housing needs of society and one of the objectives of the Framework is to boost significantly the supply of housing. Amongst other things, local planning authorities should meet the full, objectively assessed needs for market and affordable housing in the housing market area (HMA) and identify a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5%. This should be increased to 20% where there has been a record of persistent under delivery of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
17. As set out in the SoCG, there are two main elements in dispute between the appellant and the LPA on the HLS issue. These relate to the appropriate annual housing requirement (OAN) and the level of expected housing completions. Much evidence has been submitted by the main parties in respect of these matters. This includes, rather surprisingly for a scheme of no more than 11 dwellings, a detailed OAN⁵ and tomes of accompanying appendices that have been prepared on behalf of the appellant to rival the one commissioned by the LPA as part of its evidence base for the Borough wide eLP. Whilst the housing requirement in the development plan is now out of date and I must identify an objectively assessed housing requirement, in so doing, it is not for me to undertake some sort of local plan process.

⁵ The appellant's OAN identifies a housing need of 1,187 dpa.

18. The main parties agree that the period for assessing the OAN is 2012-2032 and that the starting point estimate is the DCLG 2012 based household projections⁶. On behalf of the appellant, I was also informed that the different HMAs identified by the main parties was not a matter between them. There is no cogent evidence to justify basing an assessment of OAN on a different housing market area to the one identified in the study that was prepared for the LPA. The Bedford HMA is an appropriate area for establishing OAN.
19. The principal areas of difference in respect of OAN relate to the migration rates⁷ and suppressed household formation⁸. Whilst there is also a difference regarding the communal establishment population⁹, this favours the appellant as the LPA's OAN is 14 dpa higher in respect of this matter. In my opinion, the Examination process in respect of the eLP is the most appropriate arena for considering these matters. Nevertheless, at the Inquiry witnesses were called by both main parties and were cross-examined. I have also considered the advice within the Government's Planning Practice Guidance and guidance / best practice by the Planning Advisory Service that was drawn to my attention.
20. As migration is dynamic and affected by factors which are unpredictable there can be considerable variations over short periods of time. There is logic therefore in the LPA's argument for using long term migration trends when considering long term (2012-2032) housing provision. Reliance on short term trends, which may be influenced by non-cyclical factors, could result in a bias that may not be sustained over a 20 year period.
21. Moreover, if the appellant's approach is adopted the internal net migration figure would be very much higher than the ONS 2012-based Sub-National Population Projections. Whilst the appellant has taken into account the Mid-Year Estimate (MYE) data for the period 2009/10-2013/14, the MYE's have over-estimated population growth in Bedford between censuses. The appellant has also failed to make any adjustment for Unattributable Population Change which is known to have a very significant local distorting affect.
22. There are no market indicators suggesting Bedford has failed to meet its own housing needs and the LPA's migration figure over a twenty year period would be higher than three quarters of all local authority areas. The LPA's approach to migration appears reasonable. I find greater strength in the case for determining the OAN on the basis of the migration rates used by the LPA rather than the appellant's approach.
23. The figure derived from the LPA's SHMA for homeless and concealed households is 358 over the 20 year period (18 dpa). The appellant's figure is 155 dpa higher than the LPA's OAN. Much of the difference is based around complex statistical modelling and the application of sensitivity assessments recommended in a 2015 article¹⁰ by a leading academic in population studies and a former Director at the DCLG (Simpson and McDonald). Whilst this does not comprise policy, the appellant and the LPA have referred to this informative

⁶ 908 dwellings.

⁷ The LPA uses long-term trends based on Census data (2001-2011) whilst the appellant uses a shorter period based on ONS mid-year estimates (2007/8-2012/13).

⁸ The LPA has applied a specific adjustment based on actual growth of concealed families and homeless households not captured by the household projections, whereas the appellant has made an adjustment within the household representative rates.

⁹ The LPA has included the likely diversion from residential care to extra care housing.

¹⁰ 'Making Sense of the New English Household Projections' Ludi Simpson and Neil McDonald, Town and Country Planning April 2015.

- article. Both main parties agree that an assessment of suppressed household formation is not an exact science and it calls for judgement.
24. In the worked examples of the assessments that were presented to me the uplift in housing requirement undertaken by the LPA more closely follows the Simpson and McDonald methodology. Whilst the appellant is critical of the LPA's much lower figure and has argued that its figure would fall within the range of uplifts adopted elsewhere, the appellant's modelling has the effect of preventing any household-relationship representative rate from decreasing within any age-sex group. It prevents the proportion of people living in couples from falling. The proportion of people living in couples is not sensitive to housing supply and is affected by a variety of factors. Whilst I am neither a statistician nor a demographer, it appears to me that the LPA's approach is more credible.
25. I note the appellant's argument that the LPA's OAN figure is below the DCLG starting point. However, it is very much closer to the DCLG figure than the OAN figure derived by the appellant. Whilst more detailed examination of this matter will take place during the eLP process, the evidence before me indicates that the LPA's OAN figure amounts to a reasonable assessment. I shall therefore use the figure of 884 dpa for assessing HLS.
26. There is disagreement as to the assessment period for HLS. However, the main parties agree that the HLS calculation is not sensitive to this. As the LPA monitors housing by reference to the current financial year and has traditionally estimated the first year of completions I shall also use 2016 as the base date¹¹. In this regard, the respective figures are:
- LPA – 6.26 years HLS (5% buffer) and 5.48 years HLS (20% buffer)
Appellant – 4.91 years HLS (5% buffer) and 4.30 years HLS (20% buffer).
27. The LPA considers that the 5% buffer should be applied whereas the appellant argues that the 20% buffer is more appropriate. In this regard, it is agreed that completions over the 3 years since 2012 have twice fallen below the OAN requirement. Irrespective as to whether or not the shortfall is substantial, three years is inadequate for determining whether or not there may have been any record of persistent under delivery of housing.
28. The Inspector who undertook the Examination into the ADLP did not see a justification for revising that Plan to include provision for a 20% buffer. In particular, he noted the long lead in time in providing the infrastructure necessary for the urban extensions and the difficulties in the economy. My colleague was also informed by the LPA that for the remaining plan period housing delivery would be 1,276 dpa. However, this has not been achieved and the Inspector who examined the ADLP would not have had exactly the same information before him on house completions as presented to me.
29. The evidence before me reveals that the LPA has only met its respective housing targets in 3 of the last 14 years and there has been recent under-delivery since the ADLP was adopted. The 20% buffer is not intended to be punitive but to allow flexibility in supply to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market. I also note that recent housing delivery has been boosted by

¹¹ I note that in February 2016 total completions were only 25 dwellings short of the estimate for 2015/16.

affordable housing provision largely supported by grant allocations. Reductions in such grant funding have the potential to curtail the level of affordable housing completions. Whilst criticism of the LPA would be unjust, there is greater merit in the argument that a 20% buffer is necessary to ensure flexibility in the supply of housing.

30. The LPA engages with those developing / intending to develop housing sites to assess the delivery rates / prospects. This includes corresponding with developers and their agents, site meetings and applying its own judgement as to the likelihood / timing of delivery so as to limit the bias / optimism that some developers can convey when communicating with LPAs. This information is used to inform the LPA's trajectory. In this regard, as I have already noted above, the estimated delivery for 2015/16 is accurate. This supports the LPA's argument that its assessment should be treated as a robust one.
31. In contrast, the appellant's housing witness has considerably less involvement with those developing sites in the Borough. The appellant's assessment is also not informed by any cogent evidence of the local market and takes little regard of delivery rates being achieved within the Borough. Instead, it is based on more generic research into delivery rates of large sites. With the evidence / predicted delivery rates on the disputed housing sites now tested at the Inquiry there is a reasonable prospect of the LPA's delivery rates being achieved with a 20% buffer. There is a greater weight of evidence to support the LPA's argument that 5 years HLS exists within the Borough.
32. There is no ceiling to the delivery of housing and the proposal would increase the choice and supply of dwellings within the Borough. However, the development is not required to address any shortfall in HLS and would make only a very small contribution towards the stock of housing, including affordable units. The support for the construction industry would also be very modest. In this instance, I attach limited weight to these benefits.

Setting of Box End House

33. One of the Core Principles of the Framework is to 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. In determining planning applications, paragraph 131 of the Framework includes a requirement for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.
34. Furthermore, paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. In determining this appeal I have had special regard¹² to the desirability of preserving the setting of the Grade II* listed Box End House.
35. The appeal site forms part of the surroundings in which Box End House is experienced. This part timber-framed building dates from the late 16th century with 17th, 18th and 19th century additions. The latter comprises an 1847 stone faced extension in the Jacobean style. This became the 'polite' elevation of the house and was accompanied by the creation of a garden / pleasure grounds to

¹² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- the south. As set out in the consultation response from English Heritage (now Historic England), the design and materials used in the construction of this listed building illustrate a late medieval high status house and reveal how it has evolved over time.
36. The significance of this designated heritage asset lies primarily in its inherent architectural qualities and historic building fabric, as well as the remains of an internal 17th century wall painting. As set out in the Framework, significance derives not only from a heritage asset's physical presence, but also from its setting. In this regard, the setting of Box End House has changed over time. This includes some ribbon development to the north and a row of electricity pylons, as well as Box End Water Park and the Biddenham Loop by-pass to the east. The house is also now in separate ownership and a close boarded fence and some boundary planting creates a degree of enclosure / severance from the appeal site.
37. However, the countryside character and open qualities of the appeal site contribute to the historic interest of Box End House. The relationship of the house to the various outbuildings and surrounding landscape, including the appeal site, assist in understanding how this listed building functioned as the headquarters of an agricultural landholding. This functional / historic link between the listed building and the appeal site is accepted by the appellant. The attributes of the site are a component to understanding the role and status of the house and the part it played in the social history of the area. The appeal site makes a small, but positive contribution to the significance of this designated heritage asset.
38. The illustrative layout indicates that the proposed dwellings could be set back from the listed building and an area of open space / landscaping could be provided to the south of the 'polite' elevation to reflect the former garden / pleasure grounds. Whilst not at all evident from the illustrative plan, it may also be possible to design the necessary access road to appear 'lightly' engineered and different to a more conventional estate road.
39. Nevertheless, the development, however well designed, would markedly alter the character of the site and its contribution to the significance of Box End House. The dwellings and access road would greatly increase the extent of development on the site and considerably erode its countryside character and open qualities. This new residential estate with its associated vehicular and pedestrian activity, lighting and domestic paraphernalia would suburbanise the land to the south and east of Box End House and considerably disrupt its historic landscape setting. The proposal would detract from the historic interest of a building which is recognised as being of more than special interest.
40. In all likelihood, the access road would also be very different to the rather unassuming track which currently serves the listed house and which passes through the former pleasure grounds. Notwithstanding any attempt to recreate amenity land to the south of the listed building, the proposal would unequivocally sever the site from the listed house. It would not preserve the setting of the listed building or better reveal its significance. I concur with the main parties that the proposal would conflict with the provisions of LP policy BE21. It would also be at odds with CS policy CP23.
41. The main parties and Historic England all agree that the proposal would result in less than substantial harm to the significance of Box End House to which

paragraph 134 of the Framework applies. I am of the same opinion. The LPA has argued that this would be just less than substantial harm whilst the appellant has argued that the level of harm would be very low and just more than negligible.

42. The Framework does not include a 'sliding scale' of harm within the less than substantial category. As there is such a difference between the main parties on this matter it is appropriate for me to comment further. In this regard, the extent of the harm that I have identified to the significance of Box End House is considerably greater than 'just more than negligible' but is not as great as 'just less than substantial harm'. If less than substantial harm were to be subdivided into three categories (low, moderate and high), the proposal would comprise a moderate degree of less than substantial harm. Less than substantial harm to a Grade II* listed building does not equate to a less than substantial planning objection. It carries considerable weight.

Sustainable Modes of Transport

43. There is a limited bus service to and from the settlement of Box End. The Slaters Arms public house has been closed for many months and it is by no means certain it will reopen in the future. Box End Water Park offers some leisure facilities but, from what I heard, it is used infrequently by local residents and is aimed at attracting visitors from further afield.
44. The Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and in promoting sustainable development in rural areas consideration should be given to the availability of services in other nearby settlements. In this regard, the appeal site is approximately 2.65 km from the services available in Bromham and about 2.3km from those in Kempston.
45. Some occupiers of the proposed dwellings would use some of the services / facilities in these other settlements. However, given the distances, the limited bus service and the volume and speed of traffic along the local road network that I experienced during my visits, in all likelihood, incoming residents would access these facilities by private motor vehicles. Residents would not have a real choice about how they would travel. Although accessing these services / facilities would involve short car journeys, the proposal would generate many car trips. There are good reasons why the development plan limits growth in this part of the Borough.
46. In the context of the major growth taking place at Biddenham and in other parts of Bedford, the proposal would not generate significant travel movement. However, it would considerably increase the number of car journeys being undertaken by those living around the edge of Box End. Whilst my decision does not turn on this issue, the proposal would be most unlikely to encourage sustainable modes of transport and would be at odds with the thrust of CS policies CP1 and CP2(vii) and the aim of LP policy BE30(v).

Countryside Character

47. The development plan and the Framework both recognise that the intrinsic character of the countryside must be taken into account.
48. Box End is a small linear settlement that is surrounded by open countryside. The development plan excludes it from the defined Settlement Policy Areas

(SPA) and does not identify a built-up area boundary. Under CS policy CP13, all land outside the SPA is categorised as countryside. However, as I saw during my visits, the land surrounding this settlement has a different character to the ribbon of housing on either side of Box End Road.

49. When travelling south along Box End Road, the countryside character becomes more evident when reaching the entrance to the equestrian centre to the north of Box End House. Whilst the footway continues south and the flagpoles at the entrance to the water park are apparent, the open and largely unspoilt qualities that characterise the countryside around the settlement prevail.
50. The green and open attributes of the appeal site and the agricultural buildings along part of the northern boundary have far more in common with the character of the open countryside than the settlement of Box End. The adjacent water park is discerned as a recreational / leisure facility within the countryside and whilst the housing that forms part of the Biddenham Loop can be clearly seen, it lies on the opposite side of the lakes, the River Great Ouse and the A428. Although the appeal site is not remote from any settlement, its character supports its countryside categorisation within the development plan.
51. I have already found above that the proposed development would markedly alter the countryside character of the site, erode its open qualities and suburbanise the land around Box End House. Whilst it would not comprise isolated new housing in the countryside, the proposal would erode the intrinsic character of the countryside in this part of the Borough and would be contrary to LP policy H26 and CS policies CP13 and CP14. I attach moderate weight to the harm to the character of the area that I have identified.

The Fallback

52. The main parties agree that in May 1995, following the submission and approval of pre-commencement conditional details in respect of the hotel permission, works commenced that met the requirements of section 56 of the Town and Country Planning Act 1990 (as amended). If built, the hotel, by virtue of its siting and scale, would also harm the setting of Box End House, detract from the character of the area and be at odds with the thrust of CS policies CP1 and CP2(vii). However, in comparison to the scheme before me, it would provide considerably more benefits to the local economy in terms of employment and generating income. I also note that the owner of Box End Water Park considers the hotel permission would complement his business.
53. Whilst it is also agreed that this extant permission is a material consideration, there is disagreement over the weight to be attached to it. In this regard, my attention has been drawn to the rulings in Samuel Smith Old Brewery (Tadcaster) v SSCLG and others [2009] EWCA Civ 333 and Raffaele Gambone v SSCLG [2014] EWHC 952 (Admin).
54. Undertaking the first stage of the two-stage approach set out in the 2014 ruling, it is clear that as the hotel permission has been implemented the prospects of delivery should be treated as more than theoretical. The hotel permission is therefore a material consideration that I must take into account. I now consider how much weight should be attached to that permission.
55. The appellant has argued that there is a very real possibility of the hotel permission being built and the fallback should be given considerable weight.

- However, it is nearly 26 years since that approval and other than the digging of a trench to keep the permission 'alive' no other works have been undertaken.
56. Moreover, in the intervening years the appeal site / hotel permission has been extensively marketed over a protracted period. This has included instructing a firm that specialised in leisure marketing. I note from one set of the sales particulars that specific attention was drawn to *"...recently completed man-made lakes which are positioned between the proposed Hotel curtilage and the River Great Ouse."* The accompanying site plan indicated the neighbouring water ski facilities (including clubhouse and ancillary facilities) and the proximity of the Biddenham Loop by-pass. Hotel operators have therefore been alerted to this permission and made aware of neighbouring 'attractions'.
57. The appellant's planning witness informed me that a lengthy period of time had elapsed since the hotel permission was granted. However, he was unable to explain why a hotel developer / operator had not come forward. I note that since granting the hotel permission a Premier Inn has been built in Bedford and two hotels have closed. Several schemes for residential development on the site have also been submitted. This includes a previous appeal for 64 apartments (ref. APP/W0205/A/04/1162386) in 2006. At that Inquiry a witness with expertise in the leisure field informed the previous Inspector that there was *"...a 99% probability of the permitted hotel being built."*
58. At the Inquiry that I held, none of the witnesses had specialist experience of the hotel / leisure industry. Instead, the appellant has relied upon the above noted 2015 HFU report that was prepared by the hotel and development consultancy Hotel Solutions. I note the findings in the HFU report, including the existence of the neighbouring water park as a significant leisure driver and the high levels of occupancy in existing hotels in Bedford. However, in preparing its case the LPA has sought and obtained specific advice on the prospects of the hotel permission being taken up. This has been provided in a Briefing Note by the same consultancy that prepared the 2015 HFU report.
59. Drawing upon their knowledge of both the Bedford and national hotel marketplace as well as hotel development activity and interests nationwide, and the requirements that drive this, the LPA's consultants have concluded that the Box End site / the hotel permission *"...does not have a good fit with the optimum location for new hotel development in the area in terms of market and hotel developer requirements. Our 2014 research found no interest from national hotel developers at this level in the market or for this size and format of hotel. We are unable to identify anyone that would deliver this hotel scheme. There are likely to be key reasons why this hotel proposal has not been delivered since it was consented over 25 years ago. We see no additional or different market imperative for this to change going forward."*
60. Whilst it is evident from what the Inspector was told in 2006 that the experts do not always get things right, there is a greater weight of evidence to indicate that the hotel permission is very unlikely to be built-out. In the words of the LPA's advocate it is a *"dead duck"*. I therefore agree with the LPA that the weight to be attached to the fallback is so minimal that it should have no bearing on the overall planning balance.

Other Matters

61. Activities at Box End Water Park are likely to generate much noise and disturbance, especially during the summer months when considerable activity would be taking place on the lakes. In addition, some noise disturbance could also be expected when the facilities are used for weddings and other functions that continue into the late evening.
62. I understand the fears of the owners of the water park regarding the potential impact upon the living conditions of the occupiers of the proposed dwellings and the possibility of complaints being made to the LPA. However, this matter has been considered by the LPA and the appellant's noise consultant. In the absence of any cogent evidence to refute the findings by the latter that the noise impact would be acceptable, it would be unreasonable to withhold permission on the basis of fears regarding noise disturbance. I also note that as part of the eLP process, representations have been made on behalf of the owners of the water park for some housing alongside the appeal site.
63. The owner of Box End House has experienced much anxiety and stress over the years in responding to the various schemes that have been advanced for the appeal site. Whilst I am not unsympathetic to the impact this has had on her health and well-being, it does not weigh against granting planning permission.
64. My attention has been drawn to numerous appeal decisions. Each case must be determined on its own merits and no two sites or schemes are exactly the same. The planning policy context, HLS situation, character of the site at Box End and the contribution it makes to the significance of Box End House comprise materially different circumstances. These other decisions do not set a precedent that I must follow.

Planning Balance / Overall Conclusion

65. I have found that a five year supply of housing exists within the Borough. When the benefits of the appeal scheme are weighed with the harm to the significance of Box End House and to the character of the area, as well as the conflict with policies aimed at encouraging sustainable modes of transport, I find that the totality of the harm significantly and demonstrably outweighs the benefits. The fallback does not tip this balance in favour of an approval.
66. I concur with both main parties that the proposal would conflict with the provisions of the development plan when the development plan is considered as a whole. Moreover, as a consequence of the harm that I have identified, the proposal fails to satisfy the environmental dimension to sustainable development as defined in the Framework.
67. Having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Bird QC	Instructed by the Solicitor to Bedford Borough Council
He called	
Mr I Johnson BSc, BA (Hons), DipUD, MSc, IHBC	Heritage and Compliance Service Manager
Mr J Lee BSc (Hons)	Managing Director, Opinion Research Services
Ms C Barnes BA (Hons), MPhil, MRTPI	Senior Planner, Planning Policy
Mr P White BA (Hons), MA, DipTP, MRTPI	Team Leader, Planning Appeals and Enforcement

FOR THE APPELLANT:

Mr P Goatley of Counsel	Instructed by DLP Planning Ltd
He called	
Dr C Miele MRTPI, IHBC, FRHS, FSA	Senior and Owning Partner, Montague Evans
Mr R G Bolton BSc (Hons), MRTPI	Senior Director, DLP Planning Ltd
Mr S B James BA, DipTP, MRTPI, MIEMA	Managing Director, DLP Planning Ltd

INTERESTED PERSONS:

Mr J Barbour	The Barbour Partnership
Mr K S Rai	Resident of Bedford
Mrs S Haysom	Resident of Box End
Mr P Brown	Resident of Bedford
Mrs C Ransby	Resident of Box End

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	The appellants' Opening Submissions
Document 2	The LPA's Opening Submissions
Document 3	Mr Rai's Statement
Document 4	Mrs Haysom's Statement
Document 5	Additional evidence provided by Mr Johnson
Document 6	Bedford Borough Council Policies Map 2014
Document 7	Layout plan Great Denham
Document 8	Dwelling completions 1/4/15-23/2/15

Document 9	Supplementary suggested planning conditions
Document 10	Mrs Ransby's Statement
Document 11	eLP Call for Sites (extract)
Document 12	Inspector's Report - Examination into the ADLP
Document 13	Email from the Council's Compliance Visiting Officer, Revenues & Benefits
Document 14	Licence details – Box End Water Park
Document 15	Planning permission – Box End Water Park
Document 16	Land Registry Title for the appeal site.
Document 17	ADLP – Settlement Policy Area Review
Document 18	ADLP policy AD24
Document 19	Planning permission and Planning Supporting Statement – The Clarence Hotel, Bedford
Document 20	Prior approval – Technology House, Bedford
Document 21	Amended Appendix 3 to the SoCG
Document 22	Amended page 6 to Appendix 5 of the SoCG
Document 23	Figures showing reduction in supply resulting in 4.99 years HLS
Document 24	HFU Report
Document 25	The LPA's Closing Submissions
Document 26	The appellant's Closing Submissions

Richborough Estates