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## Appeal Decision

Inquiry held on 22-25 and 30 August 2017

Site visit made on 31 August 2017

**by Michael Boniface MSc MRTPI**

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

**Decision date: 05 October 2017**

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**Appeal Ref: APP/K0235/W/17/3167566**

**Land North of Lower Farm Road, Bromham, Bedford, MK43 8JB**

- 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 Kler Group against the decision of Bedford Borough Council.
  - The application Ref 16/02255/MAO, dated 29 July 2016, was refused by notice dated 11 January 2017.
  - The development proposed is a residential development for up to 93 dwellings, access, open space and associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is submitted in outline with details of the proposed access to be considered. Matters of appearance, landscaping, layout and scale are all reserved for subsequent consideration.
3. During the course of the planning application the Council accepted amendments to the proposals comprising a revised illustrative masterplan and updated highway works drawings. These were consulted upon by the Council and were taken into account in reaching its decision. I have considered the appeal on the same basis.
4. A Planning Obligation was submitted during the inquiry in the form of a S106 agreement between the Council and the appellant. This secures affordable housing provision, open space and play equipment. The Council confirmed that the obligations overcome its fourth and fifth reasons for refusal and no witnesses were called to deal with these issues. As such, it is not necessary for me to deal with these matters in detail.
5. On 14 September 2017, after the inquiry had closed, the Government launched the *Planning for the right homes in the right places: consultation paper*. The parties were given the opportunity to comment in writing on this consultation and I have taken the submitted comments into account.

### Main Issues

6. The main issues are whether the site is a suitable location for residential development having regard to planning policy; whether the Council can demonstrate a deliverable five year housing land supply; the effect on the

character and appearance of the area; whether and to what extent best and most versatile agricultural land would be affected; and the extent to which ridge and furrow, a non-designated heritage asset, would be affected.

## Reasons

*Whether the site is suitable having regard to planning policy*

7. The development plan for the area, so far as is relevant to this appeal, currently includes the Core Strategy and Rural Issues Plan (April 2008) (CS), the Allocations and Designations Local Plan (July 2013) and saved policies of the Bedford Borough Local Plan (October 2002) (LP). The CS sets out the strategy for growth in the Borough, seeking to focus the majority of new development in the Growth Area, comprising of Bedford, Kempston and the northern Marston Vale Growth Area. The remainder of the Borough is the Rural Policy Area (RPA).
8. Policy CP1 of the CS seeks to secure sustainable levels, locations and forms of development. These are entirely appropriate objectives for a development plan that are not inconsistent with the Framework. Policy CP16 of the CS defines the number of dwellings expected to be delivered in the Rural Policy Area during the plan period based upon figures contained in the, now revoked, East of England Plan. This amount has been delivered but the Council accepts that the figure set out in the policy does not provide for delivery of the full objectively assessed housing need, as now required by the National Planning Policy Framework (the Framework).
9. In so far as these policies are predicated on the housing numbers and objectives of the revoked East of England Plan and the Milton Keynes and South Midlands Sub-Regional Strategy, they are firmly out of date. That said, due weight remains for the overall strategy to secure sustainable levels, locations and forms of development in line with Policy CP1, in so far as other policies of the development plan contribute to these objectives.
10. Policy CP13 restricts development outside of Settlement Policy Areas (SPA), which is defined as countryside for the purposes of the CS. It is agreed between the parties that the site is outside of the SPA for Bromham. The proposal is in conflict with this policy. However, there is some tension between the restrictive nature of the policy and the more nuanced approach to support sustainable development in rural areas contained within the Framework, which seeks to maintain and enhance the vitality of rural communities.
11. That said, in my view, the provision for exceptions to Policy CP13 where consistent with national policy allows for regard to be had to the provisions of the Framework, notwithstanding the reference to PPS7, which has since been cancelled and is clearly of no relevance for the purposes of this appeal. There is nothing inherently inconsistent with the Framework in the use of SPA's. Indeed, the Framework calls for the planning system to take account of the different roles and character of different areas and to recognise the intrinsic character and beauty of the countryside. The weight to be attached to the conflict with Policy CP13 is, therefore, dependent on the extent to which the development plan, taken as a whole, is meeting the housing need of the area. This is a matter that I will return to later in my decision.

12. Policy H26 of the LP also restricts development in the countryside other than in specified circumstances. Whilst this again facilitates the management of patterns of growth in the Borough, there is an inconsistency with the Framework that is not mitigated by reference to national policy as is the case for Policy CP13. The Framework is clearly a material consideration nonetheless. The proposal does not fall within any of the circumstances supported by Policy H26 and there is a policy conflict. However, I attach only limited weight to that conflict given the inconsistency identified.
13. Policy CP14 deals specifically with the location of development in the RPA and states that where there is a proven need for development to be located in the RPA, most new development will be focused in or around the edge of key service centres. Bromham is a rural key service centre and the appeal site adjoins the SPA. Consequently, if there is a proven need for residential development in the RPA, there would be no conflict with Policy CP14. One such circumstance would be a scenario where the Council is unable to demonstrate a deliverable five year housing land supply in accordance with the Framework<sup>1</sup>, a matter that I consider below.
14. This is particularly pertinent in this case because a failure to demonstrate the availability of sufficient housing land to meet needs would indicate that the overall strategy of the development plan is not operating effectively. During the inquiry, Mr White of the Council accepted that it would not be possible for all residential development necessary to meet the objectively assessed housing need to be accommodated within the Growth Area and that sufficient sites had not yet been identified within the Borough. This is a matter to be resolved through the emerging Local Plan process, but it is important that the current development plan continue to deliver in the meantime given the pressing need to boost significantly the supply of housing.
15. The Council is currently producing a new Local Plan for the Borough (the emerging LP). The preferred strategy within the current iteration would involve the delivery of 500 new dwellings in Bromham, the location of which is likely to be allocated by the emerging Neighbourhood Plan (emerging NP) for the area. Whilst this indicates that development may well take place in the village in the future, both the emerging LP and the emerging NP are at the early stages of preparation and neither party seeks to place any significant weight on them at the present time. Given the early stage of preparation, the fact that the emerging LP has not been tested at examination and the uncertainty surrounding local opinion/objection, I attach little weight to these documents at the present time.
16. In light of the above, it seems to me that the proposal would only receive policy support in the event that a proven need for residential development exists within the RPA.

### *Housing Land Supply*

#### Objectively Assessed Need (OAN)

17. In order to consider whether the Council can demonstrate a deliverable five year housing land supply in situations where there is no up to date OAN figure in the development plan, it is first necessary to establish the appropriate OAN.

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<sup>1</sup> Paragraph 47 of the Framework

The Framework requires local planning authorities to plan to meet the full objectively assessed needs for market and affordable housing in the housing market area. The Council has considered this matter in some detail through the production of a Strategic Housing Market Assessment Update 2016 (SHMA), which is prepared in order to support the emerging LP. This document has been considered in a recent appeal<sup>2</sup> and its predecessor at one shortly before<sup>3</sup>. In both cases it was found to be a robust assessment for the purposes of establishing the OAN in a S78 appeal, which cannot and should not replicate the local plan examination process.

18. In the current appeal, whilst much of the approach taken in the SHMA is accepted by the appellant there are points of difference that lead to somewhat different conclusions on the appropriate OAN for the area. The Council suggests that a figure of 950dpa is appropriate, whilst the appellant favours an OAN of 1,329dpa. The Council's figure is based on the 20 year period of 2015-2035 so as to align with the plan period for the emerging LP. The appellant assesses a 25 year period of 2011-2036. However, the resulting difference on an annualised basis is negligible and the parties agree that this is not a significant point of difference.
19. The key differences between the parties derive from assumptions about levels of migration, vacancy rates and the necessary level of adjustment to respond to market signals.
20. For the purposes of this appeal, the parties agree that the housing market area can be taken to coincide with the boundaries of Bedford Borough. CLG Household projections should be used as the starting point. Both parties utilise the 2014-based household projections, being the most recently published<sup>4</sup>.
21. Planning Practice Guidance (PPG) explains that CLG household projections are statistically robust and are based on nationally consistent assumptions. However, it does not preclude local changes and sensitivity testing based on alternative assumptions in relation to specific local circumstances, provided any changes are clearly explained and justified on the basis of established sources of robust evidence.

#### Migration

22. It is common ground between the parties that migration trends should be considered over a 10 year period, allowing a longer term view that is less susceptible to short term fluctuations. The SHMA considers the inter-censal period of 2001-2011 to take advantage of the more robust national data provided by the census, noting that ONS Mid-Year Estimates (MYE) are just that, and are often revised to take account of census data when it becomes available. The SHMA explains that previous MYE were adjusted downwards in response to the 2011 Census data<sup>6</sup>. This provides a robust point of reference.
23. However, noting the need to use the most up to date information wherever possible, the period 2005-2015 is ultimately relied upon, so as to take into account the 2015 MYE alongside Census data and other administrative data

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<sup>2</sup> APP/K0235/W/16/3147287 – Whitworth Way, Wilstead

<sup>3</sup> APP/K0235/W/15/3005128 – Box End Road, Bedford

<sup>4</sup> See Statement of Common Ground on issues relating to Objectively Assessed Housing Need (OAN)

<sup>5</sup> PPG Reference ID: 2a-017-20140306

<sup>6</sup> Para. 3.21 of the SHMA

sources. In considering the total population change over the 10 year period minus natural growth (births minus deaths), the Council concludes that net migration averages 946 people a year, or 863 households.

24. The appellant criticises the Council's approach, in that it does not take account of the more recently published 2016 MYE and does not cover the most up to date 10 year period available. However, the 2015 MYE were the most up to date at the time the SHMA was produced and the PPG is clear that housing assessments are not automatically rendered outdated every time new projections are issued<sup>7</sup>. Again, it is important to remember that the local plan examination will consider this matter in much greater detail than is possible for a S78 appeal. The SHMA is the Council's most up to date and comprehensive assessment and is intended to inform the emerging LP. It is not reasonable to expect the Council to revisit its SHMA every time new MYE are produced, nor would this necessarily improve accuracy or reliability given the uncertainty inherent in such estimates and experienced in this area in the past.
25. Mr Roberts for the appellant explained in evidence that ONS take account of potential discrepancies across MYE data and that the PPG supports the use of national data, including MYE. The SHMA fully explains why the period 2005-2015 has been used and the issues of uncertainty it seeks to avoid. Utilising a baseline population estimate for 2015, as opposed to a projection, further reduces the scope for inaccuracies. It is also notable that the period aligns with the beginning of the plan period for the emerging LP, providing further consistency to the assessment which is primarily to inform the local plan process.
26. Whilst it is unfortunate that the Council's SHMA was not updated to reflect the latest MYE available, I do not consider that this significantly undermines the Council's approach to migration trends or renders it unreliable for the reasons I have set out. Past migration trends are influenced by a range of factors and there is an inherent uncertainty in whichever 10 year period is chosen. I am not convinced that the appellant's approach, based on annual gross flows for inward and outward internal and international migration from ONS MYE components of change data, should be considered any more reliable given the uncertainty identified in these estimations. Appendix 4 of the appellant's Note (August 2017) recognises the uncertainty that accumulates year on year since the last Census as a result of estimates of net migration, which carries forward into the estimation process. Overall, I am satisfied that the Council's approach is a robust basis for considering migration trends for the purposes of this appeal.

#### Vacancy rates

27. There is no dispute that a vacancy rate should be used to convert households to dwellings. The appellant applies a rate of 5.7% based upon data taken from the 2011 Census. As set out above, the Census can usually be relied upon as a robust national data source. However, the Council suggests that the figure of 5.7% is significantly out of step with the position in Bedford recorded in the 2001 Census (3%), with Council Tax records on Census day in 2011 (3.2%) and with CLG Live Table 615 (recorded around 2.8% at October 2011). The figure is also significantly higher than other local authorities in the locality.

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<sup>7</sup> PPG Ref. ID: 2a-016-20150227

There is no known reason why vacancy rates should have increased so significantly and I heard no evidence that would explain such a jump.

28. Having identified the Census figure as anomalous, the Council compared Bedford borough with other local authorities which were ranked by ONS as the top 75 for household spaces with no usual residents, Bedford having been ranked number 57. Whilst there is limited evidence of the methodology used by the Council for this comparison, I attach some weight to its findings in so far as it provides additional supporting information. There is no evidence before me to suggest that Bedford should experience high vacancy rates because of large numbers of holiday or second homes, no evidence of large short term migrant populations or any indications that Bedford is highly deprived with large tracts of vacant homes. This is in contrast to many of the other local authority areas ranked highly for vacancy rates, though I acknowledge that the appellant did not agree in all cases and there may be other examples that are similarly unexplained. This gives some support to the Council's position that the Census data may be erroneous, having overestimated the number of vacant dwellings and consequently under-enumerated the population.
29. I note that changes have been made to the way in which Census data has been collected since 2001 and that the Census Coverage Survey now provides checks and balances to improve the reliability of data, but that does not alter the locally specific and unexplained anomaly that has been identified in respect of vacancy rates in this case. Whilst nationally collected data can usually be favoured, there is nothing in PPG that prevents the use of other data where this is justified. Whilst the council tax system is not designed to collect vacancy rate data, and the definition of vacancy can vary with locality, the process has remained constant in Bedford between the Census dates and I see no reason why evidence collected through one of the Council's other statutory functions should not be relied upon where a national data source is in question. This is particularly so where the figure used is consistent with other data sources, as in this case.
30. Overall, the Council's approach is a reasonable one, responding to a specific local anomaly in relation to vacancy rates in a rational way and utilising other sources of data to support its position. I consider the Council's 3% vacancy rate to be appropriate in this case.

#### Market signals

31. PPG advises that household projection based housing need should be adjusted to respond to market signals. In this case, the Council suggests an uplift of 5%, noting that some indicators are higher than the national average in Bedford, particularly market signals relating to price. The SHMA considers the full range of market signal indicators set out in PPG. Comparison is also made with other local authority areas that share similar characteristics with Bedford, including Aylesbury Vale, Colchester and Northampton, along with the national average. Comparison with other authorities has its limitations if those selected are not similar in terms of demographic and economic characteristics, or are performing badly. However, the Council has not simply selected its neighbours for comparison, with the SHMA demonstrating how appropriate comparisons have been used to inform judgements.
32. The appellant favours an uplift of 20% having regard to affordability, based on the ratio between median house prices and median earnings, and a ratio of

- lower quartile rental costs as a percentage of lower quartile earnings. Affordability is just one market signal and no detailed analysis of other relevant indicators is given.
33. The appellant's approach is largely informed by the Local Plans Expert Group (LPEG) methodology, but the recommendations to Government made by this group are not adopted, have no status in terms of planning policy or guidance and could change. As such, I attach this methodology little weight. For the same reason, I attach the recent Government consultation<sup>8</sup> little weight.
34. PPG represents current government guidance on the matter and it provides a clear steer on the consideration of market signals<sup>9</sup>. With regards to assessing the affordability of housing, the ratio between lower quartile house prices and the lower quartile income or earnings should be used. The appellant's approach does not accord with this guidance, nor is it explained why the PPG guidance is not to be followed in this case. Similarly, the PPG does not support the methodology used by the appellant to consider rental affordability. All of these matters, in my view, make the appellant's approach less reliable than that of the Council's, which appears to be a more comprehensive and robust analysis of market signals.
35. It was agreed during the inquiry that the uplift deriving from the analysis of market signals is ultimately a matter of professional judgement and there is no prescribed methodology for calculating the appropriate uplift. The SHMA expects that an uplift of 5% would deliver a 1.3% increase in the overall number of dwellings per year throughout the plan period, which seems reasonable in the context of other nearby authorities<sup>10</sup>.
36. A sense check is provided in comparing the market signals uplift of 20% applied following examination of the Local Plan in Camden. In Camden, lower quartile house prices are more than double that of Bedford and average monthly rents are triple. The ratio of lower quartile house price to earnings is more than double the national average in Camden, compared to a 20% higher ratio in Bedford. Overcrowding is less than the national average in Bedford compared to the position in Camden where the proportion of overcrowding is close to four times the national average. The market signals indicators are clearly far worse in Camden than in Bedford and I can see no justification for the appellant's position to apply the same level of uplift in this case.
37. The appellant suggests that a greater uplift could assist in meeting affordable housing needs in the borough, noting that there is significant need and no clear strategy for meeting it. However, affordable housing delivery has been considered as part of the SHMA and in the Council's evidence. Whilst additional housing may lead to increased provision of affordable housing, I can see limited justification for achieving this increase through a market signals uplift. In any event, it is far from demonstrated that this matter justifies the 20% uplift that the appellant suggests.
38. In light of the above, the Council's proposed market signals uplift of 5% is considered to be a reasonable and proportionate adjustment at this time and is to be preferred to the appellant's uplift.

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<sup>8</sup> Planning for the right homes in the right places: consultation proposals, 14 September 2017

<sup>9</sup> PPG Ref. ID: 2a-019-20140306

<sup>10</sup> See Fig.96 of the SHMA

### OAN Conclusion

39. PPG explains that there is no one methodological approach or use of a particular dataset that will provide a definitive assessment of development need<sup>11</sup>. In this case, I consider the Council's SHMA to be a thorough and robust assessment. I accept its conclusions and agree that the OAN for Bedford Borough is 950dpa for the purposes of this appeal. Whilst this figure is lower than the CLG household projection starting point, it is far closer to it than the appellant's figure and has been fully justified based upon local circumstances.

### Supply

40. There is only limited dispute between the parties with regards to housing supply. It is agreed between the parties that the relevant period for calculating the housing land supply is 1 April 2017 – 31 March 2022; that a 20% buffer should be applied to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market (this should be applied to any shortfall/surplus from previous years); that any shortfall in delivery should be dealt with in the next 5 years (the Sedgfield approach); and that the five year supply position should be calculated for the Borough as a whole.
41. Although it had been agreed within the Statement of Common Ground that any surplus in delivery to date should be dealt with in the next five year period, the appellant subsequently altered its position during the inquiry, suggesting that the surplus identified in this case should be spread over the plan period. I can see little justification for taking this approach, given that the parties agree that any shortfall would have needed to be made up in the next five years.
42. I do not agree with the appellant's stance that discounting the surplus from the five year calculation somehow resets the requirement. The fact is that these dwellings have been delivered already and are contributing to the Council's housing needs. The annual requirement is a minimum figure and there is no reason to believe that accounting for a surplus in delivery will have any effect on delivery in future years. Even if delivery fell short of the requirement in subsequent years, the housing situation would not be improved by having altered the annual requirement due to a surplus in the early years of the plan period. I see no merit in spreading surplus in delivery over the plan period, it simply does not achieve any purpose when shortfalls are agreed to be relevant to the next five years.
43. The appellant also introduced an argument during the inquiry that a 10% non-implementation allowance on non-windfall sites should be applied. This was suggested in light of the position taken in an appeal<sup>12</sup> in Aylesbury Vale. I do not know the full circumstances of that case, but it appears that the Council had itself included such an allowance. That is not the case here and the appellant has not provided any firm justification to support such an approach in this case. There is no indication in national policy or guidance that such an allowance is routinely necessary, nor is there any evidence before me to suggest that local circumstances indicate a need. As such, I see no reason to include such an allowance.

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<sup>11</sup> PPG Ref. ID: 2a-005-20140306

<sup>12</sup> APP/J0405/A/13/2210864



44. Leading up to the inquiry there had been dispute between the parties regarding the number of houses that would contribute to the Council's supply in respect of a number of sites. However, during a round table discussion as part of the inquiry, the appellant conceded its position with the exception of three sites.
45. This concession was caveated in respect of two sites, Eastcotts - Land r/o sheds (eastern land parcel) and Eastcotts south eastern land parcel - in that the Council's anticipated delivery was only accepted if the sale of the land proceeded. In this regard, I heard from the Council that discussions with the marketing agent confirm that a deposit has been paid (for both sites) by the prospective purchaser and that it was anticipated that the sale would complete by the end of the year. The appellant did not dispute this matter and could not provide any firm evidence that might indicate a delay in the sale process. On this basis, I see no reason to assume that the sale will not proceed as expected. Notwithstanding this, the appellant suggests a lower delivery rate for the first of these sites, which is one of the three sites that remains in dispute and I consider these below.

Eastcotts, Land r/o sheds (eastern land parcel)

46. The Council expects this site to deliver 250 dwellings. The appellant seeks a reduction to 150 dwellings based upon a slower rate of delivery in the final two years of the five year period. It is suggested that 50 dwellings per annum is more realistic than the Council's expectation of 100 dpa.
47. The appellant's position is based on an analysis of past delivery rates for sites over 50 dwellings in Bedford Borough over a 10 year period from 2007-2017. This delivery rate is less than the 57 dpa found to be the average delivery rate on other sites in Mr Robson's Proof<sup>13</sup>, which itself is at odds with the rate of 66 dpa found within the supporting evidence<sup>14</sup>. Mr Robson was unable to explain these discrepancies and no evidence was put forward to support a rate of 50 dpa. In fact, the analysis of other sites demonstrates that many sites delivered more than 100dpa in previous years.
48. The 10 year period analysed by the appellant covers the recessionary period, when lower rates of delivery might be expected. In addition, the Council highlights that delivery is likely to have been influenced by the need for substantial infrastructure improvements during this period to support the significant growth expected. Major road improvements around Bedford, including works to the A6, A421 and A428 have since been completed. In light of these factors, I attach only limited weight to the findings of the appellant's delivery rate analysis. I find the Council's approach, having regard to average delivery rates on other sites alongside information from developers, landowners and intelligence from Planning and Council Tax staff to be more robust. I see no reason to discount the Council's anticipated delivery in this case.

Eastcotts, RAF Cardington, western land parcel

49. The Council expects this site to deliver 108 dwellings, but the appellant seeks to discount all of these units on the basis of uncertainty provided by the need for a further planning application.

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<sup>13</sup> Para. 7.46 of Mr Robson's Proof

<sup>14</sup> Appendix 9 for Mr Robson

50. Mr Robson accepted during the round table discussion that, if the site is sold and a new planning permission is granted, it is possible that the site could deliver as the Council anticipates, from 2019/20. The site is being sold alongside the other Eastcotts land parcels discussed above and I have found no reason to doubt that the sale will proceed by the end of the year. Outline planning permission exists on the site, but it is dated and both parties agree that a new application is likely. As such, the Council has accounted for the time necessary to obtain planning permission and discharge conditions in its delivery expectations.
51. Whilst the need to obtain planning permission does introduce a certain level of uncertainty, the principle of development is established by the existing planning permission, and the previous ecology appraisal found no significant ecological constraints on the site. As such, there is no reason to believe that any such constraints would be discovered in a further planning application. In light of the progress made in the sale of the site and the ecology evidence<sup>15</sup> provided by the Council supporting its position, I do not share the Inspector's concern in a recent appeal decision<sup>16</sup> regarding delivery on this site. I see no reason why a new planning permission could not be secured in the next year with a view to completions in the following years from 2019/20. Consequently, I see no reason to discount the relatively conservative delivery rates anticipated by the Council.

#### Wixams Village 2

52. The Council expects this site to deliver 550 dwellings. The appellant seeks to reduce this figure by 150 units on the basis that delivery is unlikely to occur until 2019/20, a year after the Council anticipates. The delivery trajectory is therefore pushed back a year.
53. The site has outline planning permission and has been acquired by Barratt Homes. Reserved matters approval has been granted for 81 dwellings and so a start on site could occur within a relatively short time scale, even taking account of the need to discharge conditions and undertake preparatory site works. The Council also expects a further reserved matters application imminently and confirms that pre-application discussions have taken place, along with design code work. A written submission from Barratt Homes confirms an intention to deliver 822 homes in the five year period. Whilst I accept that developers are often optimistic about levels of delivery in discussions with the Council, the Council has applied a much more conservative rate of delivery and the corroboration from the developer adds weight to the Council's position. The Council suggests that the developer has commenced site works and an application has been submitted for a marketing suite. All of this supports the Council's position and I see no reason why the Council's figure of 550 dwellings should be discounted.
54. In his Proof, Mr Robson also questioned whether the site would deliver at the rate anticipated by the Council, suggesting a reduction such that a maximum delivery of 100 dpa is used. However, this position was not substantiated during the inquiry and does not form part of the deductions suggested in the Note summarising the respective supply positions submitted by the parties

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<sup>15</sup> Appendix 8 of Ms Barnes Rebuttal

<sup>16</sup> APP/K0235/W/16/3147287 - Whitworth Way, Wilstead

following the round table discussion<sup>17</sup>. In any case, this does not alter my conclusions above.

#### Housing land supply conclusion

55. As I have not found it necessary to adjust the Council's supply figure in respect of the disputed sites, the Council's overall supply stands at 6076 units. This supply divided by the annual target of 1063 (once the buffer is added to the OAN figure and taking account of the surplus) results in a 5.71 year housing land supply. The Council can comfortably demonstrate a five year housing land supply and its policies for the supply of housing are not automatically deemed out of date by virtue of paragraph 49 of the Framework.

#### *Character and appearance*

56. The site comprises agricultural land subdivided by hedgerows and wire or post and rail fencing to facilitate the keeping of animals, horses and cattle at the time of my visit. The site is located on the northern edge of the village, wrapping around established linear development along Lower Farm Road. Residential properties on Oakley Road meet the western site boundary. Large agricultural buildings and two agricultural dwellings associated with New Park Farm are just beyond the site boundary to the east and further residential properties stand opposite the site where it meets Lower Farm Road.
57. The site is currently used for agriculture and the linear pattern of development created by properties on the northern side of Lower Farm Road allows glimpses between buildings towards the countryside beyond. Development is noticeably less dense in this part of the village and the large amounts of green space provided by areas of parkland and the village green, combined with the surrounding countryside creates a feeling of rurality. That said, the area is also heavily influenced by the amount of built development and I would go no further than to say the overall experience is one of transition from the urban form of the village to the countryside. The rural character increases on travelling along Lower Farm Road as the number of dwellings reduce, gravel parking areas along the highway boundary end and more extensive views of the surrounding countryside become apparent.
58. The Council did not produce an expert landscape witness and Mr White instead carried out a 'walk through' analysis. This, in part, aligns with my own observations above, although I do not consider that the small section of linear development along the northern side of Lower Farm Road can be said to form part of a larger area of linear settlement pattern. There is no dispute between the parties that much of the village would have begun as linear development following the line of the roads. However, it is clear from the historic map progressions submitted in evidence, and visible on the ground, that more recent development has been carried out in depth so that the form of the village has been unquestionably altered. This is apparent on Oakley Road, Village Road and parts of Lower Farm Road, such as Stewart Close which is opposite the site.
59. The construction of a residential estate on land that is currently undeveloped would alter the appearance of the site, but development behind street fronting properties is not at all uncommon in the village. Views of the development

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<sup>17</sup> Inquiry Document 27

proposed between existing properties on Lower Farm Road would be possible, but these would be no more than glimpsed views and by no means prominent or intrusive. The parkland and village green to the south of Lower Farm Road would continue to provide a sense of openness and the indicative masterplan also suggests that an area of public open space would be included between the proposed dwellings and New Park Farm. More extensive open countryside views would remain beyond New Park Farm. The transition from built form to countryside would remain apparent.

60. It is agreed between the parties that the landscape and visual effects of the development would be localised and there are no long distance views that would be affected, nor impacts on the wider landscape character area. The application was accompanied by a detailed and professionally prepared Landscape and Visual Impact Assessment (November 2015) (LVIA) that is prepared in accordance with GLVIA3<sup>18</sup>. This concludes that the development would have a moderate significance of effect on landscape character and no more than a moderate significance of effect on visual receptors by year 10 following completion. However, the Council questions the visual effects on views from the East along Lower Farm Road and from the North West on Oakley Road.
61. The appellant finds a major/moderate significance of effect at year 1 from Mr Macquire's viewpoint AM4 (junction of New Park Farm access with Lower Farm Road) reducing to a moderate effect by year 15. Views towards Bromham from this viewpoint include the staggered gable ends of properties fronting Lower Farm Road, the access and fencing associated with New Park Farm and views across the site, filtered by established hedgerows and trees, the majority of which would be retained. The proposed development would introduce additional properties to Lower Farm Road and development at depth into the countryside, but the development would remain visually contained by established hedgerows on the site boundary. Residential development is not entirely alien in this area and the development would be seen in the context of existing residential properties and other buildings and infrastructure such as the electricity pylons.
62. Whilst the development proposed would have an adverse impact on the landscape it has, in my view, the capacity to accommodate development, particularly as landscaping associated with the development becomes established and views of the development become filtered and softened. As such, I find the appellant's assessment to be a reasonable one.
63. Mr White went as far as to say that the significance of effect would be major adverse from this viewpoint during evidence but this assessment has not been transparently set out in accordance with GLVIA3 as the appellant's has and it is unclear how this conclusion is reached. As such, I consider the appellant's assessment to be more reliable and I agree with its conclusions in this case.
64. The significance of effect on views from Oakley Road (approximately from around viewpoint AM9) was also questioned. The appellant suggests that only a minor significance of effect would result owing to the strongly filtered views towards the site by virtue of the tall hedgerow planting alongside Oakley Road and further tree and hedgerow planting in the intervening foreground. Mr

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<sup>18</sup> Guidelines for Landscape and Visual Impact Assessment - Third Edition, Landscape Institute and the Institute of Environmental Management and Assessment, April 2013

White produced a winter photograph towards the site taken from the highway verge and the appellant accepts that greater visibility would be available when the hedgerow is not in leaf.

65. The agricultural buildings on New Park Farm are visible from Oakley Road, as is the recently constructed agricultural dwelling and other properties on the edge of the village. I have no doubt that the upper parts of the proposed dwellings would become visible in certain views from Oakley Road, through gaps in the hedgerow or for those able to look over the highway boundary hedgerow.
66. However, there is no footpath along Oakley Road and the majority of receptors are likely to be travelling in vehicles, with a low sensitivity to changes in the wider landscape. Views beyond the hedgerow, even in winter, are likely to be limited. The glimpsed views that are available of the development would be seen in the context of one entering the village, with other buildings and village signage becoming apparent in the same view. The development would also be seen at some distance, close to established buildings and so would not be entirely at odds with the landscape. Taking all of these factors into account, I again find the appellant's assessment to be a reasonable one.
67. A series of highway works are proposed in the vicinity of the site, including a footpath along part of Lower Farm Road which would turn the corner into Oakley Road and run part way along the edge of the village green. This would lead to a highway buildout speed control feature/crossing point on Oakley Road, to provide a pedestrian link to the footpath on the other side. Raised kerbs are already a feature on Oakley Road and, whilst the footpath would alter the existing situation where the grassed village green abuts the carriageway edge, this would only affect a short stretch of the village green and would not appear anomalous in the context of the footpath opposite. Both the footpath and the highway buildout feature would be noticeable, but would not harm the character of the area, Oakley Road already being a busy vehicular through route.
68. Much of Lower Farm Road does not currently have a formal footpath, but some parts do and raised kerbs are again evident in parts. The proposed footpath would extend along the southern side of the road on an area currently laid to grass with a hedgerow on the boundary. Wooden bollards are also in situ on the verge. The introduction of a formal footpath would have some effect on the more rural appearance of the highway verge currently evident, but it would be located opposite and alongside established housing, as well as an unmade parking area that detracts from the green verges and narrow lane.
69. There is no question that the introduction of engineered highway features such as the footpath, a further build out speed control feature/crossing point and realignment of the road into a residential estate would alter the rural appearance of this route towards the countryside. However, Lower Farm Road itself begins as an engineered junction with Oakley Road and the features proposed would reflect others in the wider area. The rural character of Lower Farm Road would be maintained beyond the new access into the site and the stretch of road that would be impacted would be seen in the context of established housing and the entrance to the village. For these reasons, I do not consider the proposed highways works would be unduly harmful.
70. As set out above, the development would result in the introduction of built form to a currently undeveloped area of countryside that has some intrinsic

character and beauty. In this regard, there is some conflict with Policy CP13 of the CS which seeks to prevent development in the countryside. However, if new residential development is necessary in Bromham, then any development in countryside is likely to have these inherent impacts. In this case, the landscape and visual effects would be limited and localised. The development would sit comfortably as a logical extension of the settlement in my view.

71. For these reasons, I find no conflict with policies BE30 and BE35 of the LP which require that regard be had to the visual impacts of the development, site context and local distinctiveness, the quality of development and any adverse effects on the landscape and natural environment, amongst other things; Policies CP2, CP21 or CP24 of the CS which require that the character and quality of local landscapes are preserved, that consideration is given to context and opportunities to enhance character, quality and local distinctiveness; or the objectives of the Framework.

#### *Agricultural land classification*

72. Paragraph 112 of the Framework requires that the economic and other benefits of the best and most versatile (BMV) agricultural land be taken into account in decision making. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a high quality.
73. Both parties have undertaken site surveys and produced detailed reports that seek to identify the agricultural land classification (ALC) of the site. Both have their limitations and there was significant debate about the correct location for sample points and a broad analysis of varying limitation factors that can influence ALC. The appellant identifies soil droughtiness as the dominant limiting factor for the site, noting also that microtopography, owing to the presence of ridge and furrow, is another significant factor.
74. The conclusions reached in respect of soil droughtiness were informed by a hand analysis of the soil make-up extracted from the sample points. No laboratory analysis was undertaken to support the appeal. Conversely, the Council commissioned a detailed laboratory analysis but this did not extend to identifying key attributes of the soil, such as the polymeric stone content and sand fraction, which are essential to establishing the drought limitation of the soil in accordance with MAFF Guidance<sup>19</sup>. Under these circumstances, I have no reason to conclude that the appellant's analysis is incorrect. Whilst the Council did not consider soil droughtiness to be a significant limiting factor, this is not supported in evidence.
75. In fact, the Council's laboratory analysis identified soil with clay loam structures consistent with the findings of the appellant. In contrast to this, Mr Franklin identifies sandy loams as the predominant soil type in his analysis which would be more consistent with well-drained soil than a clay loam, increasing the propensity for limitation by droughtiness.
76. The appellant undertook borehole analysis at five intervals, only three of which are located within the appeal site, the other two being just beyond the boundary. Whilst it might have added weight to the appellant's position if all of the samples were taken within the site, the sample points were chosen in

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<sup>19</sup> Agricultural Land Classification of England and Wales, Revised guidelines and criteria for grading the quality of agricultural land - Ministry of Agriculture, Fisheries and Food (October 1988)

accordance with the standard methodology advocated by MAFF Guidelines and the Natural England Technical Information Note TIN049<sup>20</sup>, with one sample point per hectare. This seems to me to be a reliable basis on which to select sample points, avoiding any bias and ensuring an impartial approach. It is to be preferred to the Council's approach which is less formulaic, simply seeking a point that is roughly central within each field.

77. That said, because the site is relatively small the approach adopted by the appellant results in some of the sample points being located close to hedgerow boundaries where soil characteristics are not necessarily representative due to influences from the hedgerows and planting or compaction from vehicles or footfall on the field peripheries. This may explain why Mr Baird was unable to reach the full depth of 1200mm in a number of cases and this undermines the appellant's findings somewhat. Although two of the samples were taken from outside of the appeal site, I see no reason why there should be any vast differentiation between the site and the sample points given their close proximity and this factor is outweighed by the reliability of using a standard methodology for sample point location selection.
78. The reliability of the appellant's sample point 5 was also called into question because of its proximity to a newly constructed agricultural dwelling where it is clear that extracted subsoil has been spread over the area, visibly reducing the distinction between ridge and furrow. However, this spreading of material did not appear to have taken place to any significant depth and would not affect the soil characteristics below the original ground level, particularly in relation to droughtiness. I do not consider that this matter significantly undermines the findings at this sample point.
79. All of these factors raise questions as to the reliability of the land classification exercise in this case, not least the fact that neither party commissioned detailed laboratory testing of the soil characteristics that would have established much more robustly whether droughtiness is a significant limitation. In addition, the appellant itself found evidence of at least some best and most versatile agricultural land in its assessment. Overall however, I accept the appellant's findings that this is not the predominant land classification and that the evidence available indicates that the site is grade 3b. It is not, therefore, BMV agricultural land.
80. As such, I find no conflict with Policy CP2 of the CS in so far as it seeks to ensure that resources are used efficiently and scarce resources are conserved; or the objectives of the Framework.

#### *Ridge and furrow*

81. The site includes ridge and furrow earthworks surviving to varying extents across the various field parcels. A recent assessment of ridge and furrow in the Borough identifies moderate preservation in the western extent of the site with good preservation in the eastern fields<sup>21</sup>.
82. This matter is the subject of a comprehensive Statement of Common Ground relating to Archaeology (July 2017). The parties agree that the ridge and furrow has heritage interest and should be considered a non-designated

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<sup>20</sup> Natural England Technical Information Note TIN049, Agricultural Land Classification: protecting the best and most versatile agricultural land - Natural England (Second Edition, 19 December 2012)

<sup>21</sup> Ridge and Furrow in Bedford Borough, Albion Archaeology (June 2017)

heritage asset. As such, it should be taken into account in accordance with paragraph 135 of the Framework. It is also agreed that as one of the last surviving areas of relatively well preserved ridge and furrow in the parish of Bromham it should be assessed as being locally to regionally important. Furthermore, if allowed, the parties agree that the development would result in substantial harm to the significance of the non-designated heritage asset. I have no reason to disagree with the position taken by the parties.

83. Ridge and furrow earthworks tend to derive their significance from their illustrative (historical) value and contribute to an understanding of Medieval farming practices. They can also contribute to local character and sense of place. There is nothing between the parties on this point and the Council accepts that there is little to be gained from further investigation or survey works of the ridge and furrow. What is of interest is already apparent and whilst Mr Saunders explained in evidence that soil testing could provide further information such as past manuring practices, this was not sought by the Council and no condition has been suggested if permission were to be granted.
84. Whilst the ridge and furrow earthworks within the site are relatively well preserved in part, the area is not identified as a Priority Township within 'Turning the Plough'<sup>22</sup>. Nor do any of the criteria apply that are agreed between the parties to be typically required to enhance the significance of ridge and furrow, other than its state of preservation. It has no association with designated heritage assets and/or assets of medieval date and forming part of a larger network of fields with a high degree of survival.
85. The non-designated heritage asset in this case has a high degree of local significance in that it is the only example of well-preserved ridge and furrow in the parish. There is also some regional interest in that there are very few examples in Bedfordshire and only one Priority Township. There is some complexity to the survival, with at least two phases of activity with changes of alignment and variable ridge profiles.
86. Whilst some small area of the earthworks could be retained within the proposed area of public open space, this would be limited and would represent a small fragmented part of the existing asset. That part of the ridge and furrow would remain perceptible however, and public access would allow a greater appreciation of the ridge and furrow, as a non-designated heritage asset. Given the almost wholesale development of the ridge and furrow earthworks, the significance of the non-designated heritage asset would be almost entirely lost amounting to substantial harm. There is no dispute between the parties that harm to a non-designated heritage asset will always weigh against the scheme in the planning balance. However, given that the asset is of no more than high local - low regional significance and that it is well understood, the overall harm in the planning balance is moderated. During cross examination, Mr White downgraded his assessment of the weight that should be attached to the harm identified to moderate. I agree with this assessment.
87. The development would be in conflict with Policy BE23 of the LP and Policies CP21 and CP23 of the CS which seek to preserve, protect and prohibit development that would have an adverse effect on important archaeological

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<sup>22</sup> Turning the Plough, Midland open fields: landscape character and proposals for management – David Hall, English Heritage and Northamptonshire County Council (2001)



sites. However, these policies are clearly at odds with the balanced judgement required by paragraph 135 of the Framework, which is a material consideration. I return to this matter later as part of the overall planning balance.

### **Overall planning balance and conclusion**

88. I have considered the proposal against the relevant development plan policies above and concluded that this proposal would only benefit from policy support in the event that a proven need exists for housing in the RPA. At present, this is not the case as I have found the Council to have a comfortable five year housing land supply in the Borough as a whole. In this respect, the Council is successfully boosting the supply of housing in the area in accordance with paragraph 47 of the Framework. This is demonstrated in the significant levels of delivery in recent years, which has resulted in a surplus against the objectively assessed need for the area since 2015. There are also outstanding planning permissions for a great number of new dwellings which are expected to be delivered in the coming years.
89. Whilst I have found Policy CP16 of the CS to be out of date and consequently attach it little weight, this is a policy that specifies the amount of development expected only. It does not preclude other policies which deal with the strategy for delivery in the Borough from operating effectively. The Council has demonstrated that the overall strategy of the development plan is effective in delivering the necessary level of housing, as I have established above.
90. As there is no proven need for development in the RPA at present and the development would be outside of the SPA for Bromham, there is a clear conflict with Policies CP13 and CP14 of the CS. There is also conflict with Policy CP1 of the CS in that the proposal would not contribute to sustainable levels, locations and forms of development in accordance with the stated objectives and policies of the CS. Given that these policies have been demonstrated to be effective in delivering the spatial strategy of the CS and meeting the objectively assessed need for housing, there is no good reason to expect that it will not continue to do so pending examination and adoption of the emerging LP. As such, these adopted policies remain up to date and I see no reason to reduce the substantial weight I attach to them. Although there is also conflict with Policy H26 of the LP, I have already established that this policy attracts only limited weight due to its inconsistency with the Framework.
91. On this basis, I do not accept the appellant's position that the proposal accords with the development plan taken as a whole. In my view, that is not a credible position, as it is clear that there is a fundamental conflict with the overall spatial strategy and objectives of the development plan in this case.
92. I recognise that my conclusions as to the weight to be attached to various policies differ from that of the Inspector in a previous appeal in the Borough<sup>23</sup>. However, I do not know the full extent of the evidence before that Inspector which led to his conclusions. Furthermore, that decision was made in the context of a more marginal housing land supply position. I have necessarily used my own judgement in the context of the evidence before me in this case.

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<sup>23</sup> APP/K0235/W/17/3167566 – Whitworth Way, Wilstead

93. There are a number of economic, social and environmental benefits that would arise from the development. These include a further contribution to the supply of market housing in the area, to which I attach moderate weight given the context of national need, but that is tempered by the fact that the need in this area is being demonstrably met. I attach significant positive weight to the proposed delivery of 30% affordable housing given the pressing need in the area and the current shortfall in delivery.
94. I note the benefits that would arise from the creation of jobs during construction and through increased local population; the provision of new public open space and play equipment that would be accessible to existing residents of the village in addition to meeting the need generated by the development; the benefits that would arise through landscaping and creation of new ecological habitats, notwithstanding that this benefit is heavily moderated by the harm that would result from the development in these respects; the increased local expenditure that would support local businesses; and the benefits to local infrastructure arising from CIL payments in so far as they would benefit the wider population of the village. These benefits would be likely to arise from any residential development of this scale but that does not mean they are not benefits or alter the specific positive influence on the immediate area. Therefore, I attach these matters limited weight in favour of the development.
95. Whilst I have found some of the Council's policies to be out of date or inconsistent with the Framework, I have found the pertinent policies of the development plan in this case to be up to date and there is clear conflict with the development plan, taken as a whole. Under these circumstances, I have not applied the tilted balance of paragraph 14 of the Framework. The appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise.
96. The proposal is in conflict with the fundamental strategy and objectives of the development plan and is not in an appropriate location at this time. Whilst I have not found harm in relation to character and appearance or best and most versatile agricultural land, the substantial harm that I have found to a non-designated heritage asset also weighs against the proposal and is in conflict with the objectives of the Framework. I have had regard to the material considerations in favour of the development but these do not alter or outweigh the conflict with the development plan in this case and the harms that I have identified.
97. On balance, in light of the above, and having considered all other matters, the appeal is dismissed.

*Michael Boniface*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mark Westmoreland Smith	Counsel
He called:	
Jonathan Lee BSc (Hons)	Managing Director, ORS
Carolyn Barnes BA MPhil MRTPI	Senior Planner, Policy
Geoff Saunders BA	Archaeological Officer
Peter White BA MA PGDip	Team Leader for Planning Appeals and Enforcement
Sam Franklin BSc (Hons)	Proprietor, Landscape Land and Property

### FOR THE APPELLANT:

Satnam Choongh	Counsel
He called:	
Simon Mortimer MA CIFA	Director, CgMs Consulting
Alastair Macquire BA (Hons) DIP LA CMLI	Associate Director, Aspect Landscape Planning
Alex Roberts BSc (Joint Hons) AssocRTPI	Associate Director, SPRU
Michael Robson BA (Hons) PGDip MRTPI	Director, Cerda Planning Ltd
Daniel Baird BSc MSc M.I. Soil Sci.	Managing Director, Daniel Baird Soil Consultancy

### INTERESTED PERSONS:

Gerry Sansom	CPRE
John Bennett	Local resident
Sian Woodfine	Bromham Parish Council and Neighbourhood Plan Steering Group

## DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1a Appeal decision – APP/D3125/W/16/3143885,
- 1b Appeal decision – APP/R3705/A/13/2203973
- 1c Appeal decision – APP/P3420/A/14/2218530
- 1d Appeal decision – APP/J0405/A/13/2210864
- 1e Appeal decision – APP/H1840/A/12/2172588
- 1f Appeal decision – APP/A0655/A/13/2193956
- 1g Appeal decision – APP/K3415/A/14/2225799
- 2a MAFF Agricultural Land Classification - Revised guidelines and criteria for grading the quality of agricultural land (October 1988)
- 2b Natural England Technical Information Note TIN049
- 2c Thinksoils, Environment Agency
- 2d East Region 1:250,000 Series Agricultural Land Classification map
- 3 Opening submissions on behalf of the appellant
- 4 Opening submissions on behalf of the Council
- 5 Local Plan Call for Sites, Highways and Transport Access Assessments, Site Ref. 414
- 6 Written copy of oral submissions by John Bennett
- 7 Note on Objectively Assessed Need for Housing by Alex Roberts (August 2017)
- 8 Section 106 Agreement
- 9 Statement of Common Ground on issues relating to OAN
- 10 Copy of Location Plan
- 11 Statement of Common Ground (August 2017)
- 12 Written copy of oral submissions by Gerry Sansom
- 13 Larger copy of Appendix 5 from the evidence of Peter White
- 14 Extract from PPG dealing with Housing and economic development needs assessments
- 15 Extract from PPG dealing with Housing and economic land availability assessment
- 16 Written copy or oral submissions by Sian Woodfine
- 17 Extract from CLG White Paper, Fixing our broken housing market (P.63)
- 18 Schedule of conditions and S106 heads of terms
- 19 CIL Compliance Statement
- 20 Map showing Daniel Baird soil sample positions
- 21 Highways Response Note to comments by Mr Bennett (August 17)
- 22 High Court Judgement – [2016] EWHC 103 (Admin)
- 23 Supreme Court Judgement – [2017] UKSC 37
- 24 High Court Judgement – [2016] EWHC 3323 (Admin)
- 25 Appeal decision – APP/P0240/W/16/3166033
- 26 Copy of field notes from Appendix 3 of evidence by Daniel Baird
- 27 Housing Land Supply scenario tables
- 28 Closing submissions for the Council
- 29 Closing submissions for the appellant
- 30 Proposed route for site visit