



Appeal Decision

Inquiry Held on 7 to 10 November 2017

Site visit made on 9 November 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 3 January 2018

Appeal Ref: APP/P0240/W/17/3176444
64 Biggleswade Road, Potton, SG19 2LX

- 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 Gladman Developments against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/03943/OUT, dated 22 August 2016, was refused by notice dated 22 March 2017.
 - The development proposed is described as: *Outline planning permission for up to 85 residential dwellings (including up to 35% affordable housing), demolition of 64 Biggleswade Road and associated outbuildings, introduction of structural planting and landscaping, informal open space, surface water flood mitigation and attenuation, vehicular access point from Biggleswade Road and associated ancillary works. All matter to be reserved with the exception of access.* (sic)
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Decision

1. The appeal is allowed and planning permission is granted for up to 85 residential dwellings (including up to 35% affordable housing), demolition of 64 Biggleswade Road and associated outbuildings, introduction of structural planting and landscaping, informal open space, surface water flood mitigation and attenuation, vehicular access point from Biggleswade Road and associated ancillary works. All matters reserved with the exception of access at 64 Biggleswade Road, Potton, SG19 2LX in accordance with the terms of the application, Ref CB/16/03943/OUT, dated 22 August 2016, subject to the conditions set out in Appendix A.

Main Issues

2. The main issues are:
 - (i) Whether or not the Council is able to demonstrate a five year supply of deliverable housing sites, and;
 - (ii) The effect of the proposed development on the character and appearance of the area, and;
 - (iii) Whether the proposed development would make adequate provision in respect of local infrastructure, including matters such as affordable housing.

Reasons

The Policy context

3. Central Bedfordshire Council was created as a unitary authority in 2009. For the northern part of the local authority area, in which the appeal site lies, the development plan comprises the *Core Strategy and Development Management Policies 2009* (CS) and the *Central Bedfordshire (North) Sites Allocation Development Plan Document 2011* (SADPD). Both parts of the adopted development plan pre-date the adoption of *National Planning Policy Framework* (the Framework).
4. At the Inquiry, Mr Hughes, for the Council, confirmed that the CS and the SADPD rely upon the housing requirement derived from the now revoked *East of England Regional Spatial Strategy* (RSS). In turn, the RSS relied upon a non-Objectively Assessed Needs (OAN) approach to identifying the housing requirement. The use of RSS housing figures to support a housing requirement should be used with extreme caution. Neither party relies upon the housing requirement figure contained within the adopted development plan and have instead suggested alternative OAN figures.
5. Nevertheless, the Council conceded under cross-examination that the CS and SADPD are out-of-date insofar as they rely upon the adopted housing requirement figures. Where this becomes slightly complicated is that the Council refused permission on the grounds of Policy DM4 of the CS relating to settlement envelopes. The Council considers that this policy does no more than differentiate between the countryside and settlements. However, that is to not read it fully. The policy refers to the acceptability or otherwise of development within and beyond the settlement envelopes. Beyond settlement envelopes, the policy only expressly permits limited extensions to gardens.
6. When read plainly, this is at odds with the Framework, which at bullet point 5, Paragraph 17 seeks to recognise the intrinsic character and beauty of the countryside. Slightly differently, CS Policy DM4 essentially seeks to only support development to within the settlement envelopes; with no ability to assess its impact or the possible need to build in the countryside to deliver housing.
7. Indeed, the Council's own SADPD allocates sites outside of the settlement envelopes and it was not disputed at the Inquiry that about 71% of the Council's more recent or planned delivery will occur outside of the settlement envelope. In such a manner, there is an acceptance by the Council that so long as any impact is assessed and considered, the settlement envelopes can be breached and will need to be, in the short term, to deliver the area's local housing need until a new development plan is adopted.
8. I have considered the 'narrow' approach advocated in the Supreme Court *Suffolk Coastal* judgement¹ in relation to relevant policies for the supply of housing. However, as a matter of planning judgement, CS Policy DM4 is plainly not a policy for the supply of housing in the narrow interpretation favoured by the Supreme Court. It is clear that Policy DM4 of the CS, whilst a relevant policy, is not fully consistent with the policies of the Framework, which seek to recognise the intrinsic character and beauty of the countryside rather than to

¹ CD7.10, *Shropshire Council and SoS CLG, et al*, [2016] EWHC 2733 (Admin)

specifically 'protect' it. In such circumstances, given this inconsistency, I afford this policy moderate weight in accordance with Paragraph 215 of the Framework.

9. Turning to other policies of the development plan, the evidence of Mr Hughes, on behalf of the Council, has assessed the proposal against Policies DM14 and CS16 of the CS, which relates to landscape and woodland, and found that the proposal would conflict with these. These Policies set out a criterion approach which require that *'planning applications are assessed against the impact the proposed development will have on the landscape, whether positive or negative...and that proposals for development that lie within the Greensand Ridge...will be required to conserve or enhance the landscape. Any proposals that have an adverse impact on the landscape in these areas will be rejected unless there is a particular need for, or benefit arising from the proposal that would override this requirement.'*
10. The appellant asserts the insofar as these policies are relevant, they are not consistent with recognising the intrinsic character and beauty of the countryside as set out at Paragraph 17 of the Framework, and should therefore be afforded less weight. However, in seeking to conserve or enhance a landscape, it is inherent that one must recognise its intrinsic character.
11. In this manner, I consider that these policies are broadly consistent with those of the Framework, and should therefore be afforded the greater weight envisaged at Paragraph 215 of the Framework in relation to post-Framework adopted development plans.
12. To conclude, whilst the development plan as a whole falls to be considered under Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, (PCPA), the relevant policies for the purposes of determining this appeal focus upon CS Policies DM4, DM14 and CS16. I have proceeded on this basis.

Housing supply

13. The main parties agree that the housing requirement figure set out in development plan policies such as Policy CS1 and CS5 of the CS was predicated on the revoked RSS. As established by caselaw², when there is no established 'housing requirement' figure for a local planning authority area, it is appropriate for the decision-maker to use an Objectively Assessed Need (OAN) figure. It should however be borne in mind that any such figure is not a constrained one, nor does it represent a 'housing requirement' figure.
14. The purpose of identifying an OAN is so that one can compare the need within a given area against the supply. Both main parties have submitted alternative OAN figures. There is also dispute between the parties in respect of some supply sites, and in particular delivery rates. I consider the matter of OAN first, before then assessing this against the supply in order to establish whether the Council is able to demonstrate a five year supply of deliverable housing sites in accordance with Paragraphs 47 to 49 of the Framework.

² For example, CD7.06 - *City and District of St Albans and Hunston Properties and SoS [2013] EWCA Civ 1610* dated 12 December 2013 and CD7.10 - *Shropshire Council and SoS [2016] EWHC 2733 (Admin)* dated 2 November 2016

The OAN figure

15. Put simply, the appellant considers that the OAN figure for the relevant five year period should be 1,833 dwellings per annum (dpa), totalling about 9,165 dwellings. The Council considers that this figure should be 1,600 dpa, totalling about 8,000 dwellings. In order to decide the issues I have identified in this case, it is necessary to consider the appellant's level of housing need and supply as a material consideration³. The main drivers behind the higher appellant's OAN are Unattributed Population Changes (UPC), employment growth, and market signals.
16. The evidence submitted by both parties is detailed, but it is important to recognise that in the context of a Section 78 appeal the decision-maker is not making an authoritative assessment which binds the local planning authority. What is more, the judgements about housing need and supply will not involve the kind of detailed analysis which would be appropriate at a development plan examination.
17. In this respect, I am persuaded that the evidence of the local planning authority should be used in preference to that of the appellant. The reasons for this include the fact that the Council's evidence builds upon the SHMA Update 2015⁴. Whilst the outturns are different; for example increasing 'need' across the SHMA, the overall methodology was not dissimilar. What is more, the Examining Inspector (considering the Luton Local Plan) found that *'the approach taken in the SHMA to arrive at these figures appear as reasonable'*⁵. Whilst it is incumbent upon me to use the most up to date figures for this appeal, the application of similar methodologies to the SHMA from 2015 to 2017 to formulate the OAN, lends support to the Council's OAN figure over that of the appellant in this case.
18. Both parties referred me to the Government's consultation on the potential adoption of a standard methodology for calculating housing needs and the little weight afforded to it by a recent appeal decision⁶. Neither party adopts the suggested methodology in this appeal. In such circumstances, I see no reason to deviate from the approach adopted by the Inspector in that case, and afford this methodology very limited weight in the context of this appeal.
19. Returning to the preferred OAN figure for this appeal, the *Initial Strategic Housing Market Assessment for Luton & Central Bedfordshire May 2017*⁷ (SHMA 2017) identifies that the total FOAN for housing across Luton and Central Bedfordshire 2015-2035 is 50,588⁸. This is totalled from the identified needs of 18,810 dwellings from Luton and 31,778 dwellings from Central Bedfordshire. Luton and Central Bedfordshire are considered by the SHMA 2017 to be the 'best fit' housing market area, whereas these two authorities with North Hertfordshire and Aylesbury Vale Councils form the 'functional' housing market area.
20. On 7 November 2017, whilst the Inquiry was sitting, Luton Borough Council adopted its local plan. This contains a housing requirement figure of about

³ CD7.10, *Shropshire Council and SoS CLG, et al, [2016] EWHC 2733 (Admin)*, paras 27 and 28 of judgement

⁴ CD11.3, *Luton and Central Bedfordshire SHMA Update May 2015*

⁵ CD8.06, Page 21, para. 96

⁶ Appendix 7, Mr Lawrence's Rebuttal, Appeal decision 3167566, para. 33

⁷ CD 11.04, *Initial Strategic Housing Market Assessment for Luton & Central Bedfordshire May 2017*

⁸ *Ibid*, page 85, Figure 66

9,300 dwellings; meaning that there is technically an unmet need within the housing market area (HMA) for around 9,000 dwellings. The appellant points to the Inspector's Report concerning the Luton Local Plan and that it states that '*central Bedfordshire is clearly the most obvious candidate to meet this unmet need*⁹. In this respect, the appellant considers that the unmet need of Luton should be added to the OAN for Central Bedfordshire in order to ensure that the FOAN for the 'best-fit' HMA is totalled.

21. Whilst there is some logic in this approach, its application in this case would be flawed. It appears clear that Councils across the HMA, whether the functional or best fit, appreciate that there is an unmet need that will need to be met. The unusual aspect in this case is that only one of the four authorities within the functional HMA has a recently adopted development plan. Such is the fluid nature of emerging plans against the need to accommodate housing needs.
22. However, it would be wrong in my role in the context of a Section 78 appeal to try and second-guess how this need would be met across the HMA. To do so would be to err into the second stage of the housing land supply requirement; which the *Hunston* caselaw is clear is not necessary in the context of a S78 appeal¹⁰.
23. Nonetheless, what I do have before me is an OAN figure for Central Bedfordshire and a supply of housing sites for me to assess this against. In such circumstances, I consider that the correct approach is that used by the Council in terms of assessing supply against the SHMA 2017 without incorporating the unmet need for Luton. This does not mean that the unmet need is irrelevant, and any contribution to meeting it is a potential benefit in favour of the proposal.
24. With regard to whether a 5% or 20% buffer should be applied in relation to Paragraph 47 of the Framework, the appellant considers that a 20% buffer should be applied. The Council has submitted a table (LPA2) which shows that supply exceeded the housing need figure for four years out of six for the period 2011 to 2017. The appellant contends that not only does this table restrict itself to a six year rather than ten year period¹¹, but that the 1,280 operative OAN figure should instead be 1,475 for the years 2011/12, 2012/13 and 2013/14 as the 1,280 is based upon the RSS 'requirement'. In such circumstances, the figure would be negative for those years.
25. However, to apply the 1,475 figure would be to retro-apply the SHMA 2015 figure. I consider that the relevant figures for those years should be the Council's 1,280 figure. I therefore find, in the context of the table at LPA2, the Council does not have a record of persistent under-delivery and therefore a buffer of 5% is appropriate.
26. To conclude on OAN matters; I adopt the Council's SHMA 2017 figure without the addition of the unmet need of the Luton Borough. I also consider that the application of a 5% buffer is appropriate. As such, the Council's annual OAN figure for the purposes of this appeal is 1,680dpa. To demonstrate a five year

⁹ CD8.06, page 22-23, paragraph 105

¹⁰ CD7.06 - Hunston, Paragraph 26

¹¹ The ten year period being equivalent to an housing market cycle, as set out in the national Planning Practice Guidance

supply of deliverable housing sites, the Council need to have a housing supply of at least 8,400; equating to 1,680dpa over five years.

Supply sites

27. At the Inquiry, I heard from Mr Hughes that the Council undertakes quarterly monitoring of its housing supply sites. This includes direct contact with the landowners and/or developers of sites. This information informs the housing trajectory for the area, which the Council considers would provide 9,862 dwellings over the five year period.
28. The appellant has looked at this information, but considers that the rate of delivery is imprecise and in some cases the Council has been over-optimistic. Instead Mr Tiley, for the appellant, prefers the use of an average rate for delivery. This would provide a supply of 9,386 dwellings. In both cases the supply figures provided would meet the OAN for this appeal of 8,400.
29. Mr Tiley was concerned that the Council appeared *'to take the word of the developers'*¹² with limited explanation provided within the housing trajectory. Indeed, the appellant considers that the trajectory is *'so aspirational as to be unrealistic'*¹³. However, the key point when considering housing delivery and deliverable supply is whether there is a realistic prospect of delivery on sites. That is not to say that deliverability is about whether or not supply sites will come forward; actual delivery is different to deliverability and there are many factors and players involved beyond the Council's control¹⁴.
30. I note the appellant's concerns over the delivery on some sites, such as in the case of East Leighton, Linslade¹⁵ where the Council considers that a delivery rate of 300 per annum is appropriate whereas the appellant considers a rate of 200 per annum is more realistic. However, as a matter of planning judgement, I consider the Council's approach, of proactively monitoring and contacting site owners/developers every quarter, to be a more realistic and pragmatic one than applying an average rate of delivery; even though I recognise that both methods have their flaws.
31. Even with the inherent failings that may arise from over-optimism, I consider that the site specific monitoring to be a more robust way in which the housing trajectory in this case should be formed. In respect of supply sites, I consider that the Council's approach is reasonable and that its evidence should be adopted in this case.

Findings on housing land supply

32. The relevant OAN for this appeal is derived from the Council's SHMA 2017, being a total of 8,400 dwellings over the five year period. The supply in this case is 9,862. I therefore find that the Council is able to demonstrate a supply of deliverable housing sites in excess of five years.
33. My attention has been drawn to a recently issued appeal decision, which was dismissed¹⁶. Both parties provided observations on this¹⁷ which I have taken

¹² Reference made in oral Evidence-in-Chief

¹³ Mr Tiley's POE, para. 12.5

¹⁴ CD7.08 - *St Modwen Developments and SoS [2016] EWHC 968 (Admin)* dated 28 April 2016 and subsequent Court of Appeal judgement

¹⁵ See for example POE, Mr Tiley, Appendix 5, Sites HT078 and HT079

¹⁶ See AI1, Appeal Ref: 3152707

¹⁷ AI2 and AI3

into account. To summarise, this decision found that the Council is able to demonstrate a five year supply of deliverable housing sites. I cannot be sure that the evidence presented to that Inquiry is identical to that before me. But in any case, I have considered this appeal scheme on its own planning merits.

Character and appearance

34. The appeal site is not located within a local or national landscape area, but it is contained within the Greensand Ridge Landscape Character Area (LCA). It is clear that the approach within the LCA is that of a broad 'washed over' one; which includes settlements such as Potton as much as recognisable areas of countryside. The appeal site is located on the edge of Potton on the western edge of Biggleswade Road. On the eastern side of Biggleswade Road are the grounds of Potton United Football Club and Potton Town Cricket Club, with associated lighting and pitches and adjacent to these is a local sewerage works.
35. To the south of the appeal site is part of the John O'Gaunt Golf Course, screened by rows of mature trees. To the north is the settlement of Potton beyond open fields, some of which are earmarked for future residential development. To the west, beyond Sutton Mill Road and dwellings facing onto it, is a disused quarry.
36. The appeal site itself comprises undulating fields that rise to the west. They appear as horse paddocks with features such as post and rail style fencing. The boundary along Biggleswade Road is formed by a fairly dense hedge and tree lined boundary, with views into the site very limited and sporadic. The Public Right of Way (PROW), Footpath 4, runs through part of the site, with Bridleways 5 and 8 close to the edges of the site. I saw during my site inspection that views of the appeal site and landscape more widely are possible from a number of viewpoints.
37. The appeal scheme would alter the character of the site from a rural edge of the settlement to a more suburban one. The site lies outside of the settlement envelopes and therefore is not supported by Policy DM4 of the CS, which supports development within the settlement envelopes. Policy DM14 of the CS seeks to conserve or enhance the landscape within the Greensand Ridge LCA and Policy CS16 of the CS seeks to resist development where it would have an adverse impact on important landscape features.
38. In this case, the submitted *Landscape & Visual Impact Assessment* (LVIA) has identified that the visual impacts, where they exist, are localised. The Council's own Landscape Officer did not raise any objections to the proposal on landscape grounds and the Council has not raised any objections as to the effectiveness or otherwise of the proposed landscaping. The appeal site is located right at the edge of the Greensand Ridge LCA, which itself includes areas of built form. I heard at the Inquiry that the appeal site is not characteristic of the wider Greensand Ridge LCA, which is found to the west, but is nonetheless contained within it.
39. The proposal appears to be characteristic of a landscape-led scheme with about 43% of the site area comprising green infrastructure. Views from further afield into the site would be mitigated or screened by the use of tree lined boundaries, and the Council has not raised concerns that this would not work. In terms of the views from the local PROWs, including Footpath 4, I saw that views to the arc ranging from the west to the east looking northwards is

already experienced with users able to see at various points residential dwellings, the settlement of Potton and paraphernalia associated with the football and cricket grounds.

40. The appeal site would, in effect, appear as a logical extension to the settlement, which would provide a gentle merging of the landscape between the southern edge of Potton and that found at the golf course to the south, whilst still retaining a sense of rural fringe. The experience of users of the PROW would alter, but this would be extremely limited to a very short stretch of footpath which is already affected by views of development contained within the settlement envelopes.
41. Views from the footpath are part of a kinetic experience, rather than stationary one. Footpath users travelling westwards would reach the crest of the footpath at the end of Sutton Mill Road and look outwards towards areas of open land to the west. Travelling eastwards, the path is interrupted by Biggleswade Road and the local sewerage works. The point being that the existing context of the PROWs are not that they are sitting in isolated areas of countryside miles from evidence of built form, but rather they are already experienced in the edge of settlement or urban fringe context.
42. Taken in the round, the character of the appeal site would clearly change from its open undulating horse paddocks to a housing development of up to 85 dwellings with associated roads and gardens. However, any impact on character and appearance would be extremely localised and well-screened so as to lessen its visual impact from further afield. I acknowledge that the character of the area would change, but this does not equate to there being an adverse impact on the LCA, which Policies DM14 and CS16 of the CS seek to conserve or enhance its landscape. The proposal in this case would accord with these policy aims, even though the site's character and appearance would change.
43. I therefore conclude that the proposal would not result in harm to the character or appearance of the area. It would therefore accord with Policies DM14 and CS16 of the CS, the aims of which I have aforesaid.
44. With regard to Policy DM4 of the CS, this sets out that development is generally acceptable within the settlement envelopes. It does not, however, explicitly prevent (or seek to prevent) development such as that proposed here from occurring outside of the settlement envelopes. Instead, it requires the decision-maker to consider other development plan policies in order to identify whether harm would arise or not. In that respect, I have considered the acceptability of the proposal in respect of the development plan as a whole, and find that there would be no unacceptable harm arising from the proposal with regard to character and appearance.

Local Infrastructure

45. The Appellant has submitted a completed unilateral undertaking (under S106 of the TCPA) dated 10 November 2017¹⁸. This secures monies towards a community hall, education, health care, highways, PROW improvements, a skate park, play equipment and playing pitch; and land/schemes for a

¹⁸ APP6

management company and plan, open space and SUDs; and that 35% of the dwellings will be affordable housing.

46. The Proof of Evidence of Mr Hughes sets out that Policies CS2 and CS7 of the CS seek such contributions. It also sets out that in all cases¹⁹ the contributions would comply with Paragraph 204 of the Framework and CIL Regulation 122(2). These set out three 'tests' for seeking planning obligations: in that they must be '*necessary to make the development acceptable in planning terms, directly relate to the development, and fairly and related in scale and kind to the development*'. It was also confirmed at the Inquiry that the contributions sought would not exceed the 'more than five contributions' pooling restrictions.
47. Having considered the evidence before me, I consider that the all the obligations meet these tests, and should be taken into account in the decision.

Other Matters

48. Concerns have been raised by interested parties at both the application and appeal stages. I now consider these before coming to an overall conclusion.
49. In terms of concerns related to the potential loss of a 'priority habitat', which includes acid grassland, the *Statement of Common Ground* (SOCG) indicates that this area of grassland is currently unmanaged and unprotected²⁰. The main parties consider that this could be dealt with by means of a condition ensuring the implementation of a *Grassland Management and Enhancement Plan* and the approval of reserved matters.
50. In effect this would move the acid grassland from its current location in the northern end of the site, to the southern end; between Footpath 4 and the Bridleway adjacent to the golf course. There is no obvious reason as to why this could not be achieved, and in doing so could assist in conserving this habitat for future generations. What is more, the use of sensitive landscaping, including the planting of indigenous trees and plants, could assist in providing an overall net gain in biodiversity, which is a benefit in favour of the proposal.
51. With regard to concerns over increased traffic, clearly a development of up to 85 dwellings is likely to lead to some increase in traffic movements and associated factors such as noise. However, there is little evidence before me that the proposal would result in significant movement, even taking into account other nearby proposals. In such circumstances, I do not find that any increase in traffic would provide justification for the refusal of the proposal. I am reinforced in this finding by the fact that no objections have been raised by the local highways authority on this point.
52. I note the concerns raised in respect of living conditions, and in particular on the occupants of dwellings along Biggleswade Road and The Ridgeway. The main parties agree in the SOCG²¹ that the use of the site is not incompatible with the dwellings facing Biggleswade Road adjacent to the eastern side of the site.

¹⁹ Mr Hughes POE, pages 30 to 35, paras. 7.54 to 7.88

²⁰ SOCG, page 9, para. 3.15.2

²¹ SOCG, pages 7 to 8, para. 3.9.1

53. Whilst I acknowledge that there would be some change in outlook from nearby properties, given the distances involved and the intervening garden areas, I do not consider that the proposal would result in a materially harmful impact on living conditions such as loss of light or privacy.
54. Taking into consideration all other matters raised, I do not find that these, whether individually or cumulatively, amount to justification for the dismissal for the appeal.

Conditions

55. In considering conditions that may be imposed, I have taken into account Paragraph 206 of the Framework and the national Planning Practice Guidance in respect of the use of planning conditions. At the Inquiry a draft schedule of conditions was used, without prejudice, for considering what conditions might be imposed. These have formed the basis of my considerations.
56. Conditions relating to the submission of reserved matters for layout, scale, appearance, and landscaping (including ground levels), their implementation and relevant time limits for submission/implementation, and that the proposal relates to the submitted drawings, are necessary and reasonable to provide certainty and in the interest of proper planning. For similar reasons the submission of details of hard and soft landscaping, and guiding design principles are reasonable as they will assist in ensuring that the development will have a coherent and over-arching design framework.
57. The suggested condition relating to a waste audit scheme appears onerous and unnecessary given that the proposal would require the collection of residential waste and the provision of waste receptacles which are a matter for the local authority. Such a condition is not necessary in this case.
58. A condition relating to ecological measures and that the Grassland Management and Enhancement Plan is implemented according to further details is necessary in order to protect existing habitats and species, and to provide a net gain for biodiversity.
59. A condition requiring details of fire hydrants and their installation is reasonable in order to provide adequate infrastructure for fire services. Details of surface water drainage and its management is necessary in order to ensure that any localised risk of flooding is minimised. The submission of details and their implementation relating to access and cycle/pedestrian links, parking and related matters is reasonable in order to promote sustainable modes of transport. Similarly, the provision of details of estate roads is necessary to ensure that access to the overall development is possible by a variety of transport modes.
60. The submission of a construction traffic management plan is reasonable in order to ensure that disruption to nearby residents and the road network is kept to a minimum during the construction phase. However, this should take the form of a Construction Method Statement, in order that it covers hours of operation and wheel washing, for example.
61. A condition relating to noise assessment has been suggested by the Council. However, there is little indication before me that noise is a specific issue in this location and it is unclear as to what reasonable and planning purpose such a condition would fulfil.

62. A condition relating to protecting future residents from odour from the local sewerage works is necessary in order to protect human health and help minimise the impact of this existing facility insofar as it is possible to do so. The suggested condition requiring a Materials Recovery Plan is unusual, but would assist in promoting the sustainable re-use of materials. It would therefore be relevant to planning and to the development to be permitted.
63. Lastly, a condition has been suggested in terms of a Public Art Plan and the installation of public art. No local development plan reason for the imposition of such a condition in this instance has been provided. I do not consider that such a condition is necessary in this case.

Overall Conclusion

64. Section 38(6) of the PCPA, sets out that in the determination of proposals, this must be made in accordance with the development plan, unless material considerations indicate otherwise. In this case there is a technical breach of one policy of the development plan, in that the proposal would result in development within the countryside, whereas Policy DM4 of the CS seeks to generally direct development to within settlement envelopes. However, there would be no harm to the countryside through the change in the character and appearance of the appeal site.
65. Accordingly, the proposal accords with the adopted development plan when read as a whole. The Framework, as a material consideration, sets out at Paragraph 14 that where such circumstances exist the proposal should be approved without delay. Accordingly, the Framework, as a material consideration, indicates that permission should be granted whether the 'titled balance' is engaged or not²².
66. For the avoidance of doubt, in the absence of any identified adverse impacts, I find that there is no justification for the dismissal of the appeal proposal. The wider public benefits in this case, which include assisting in meeting the unmet need of Luton (and the wider HMA) and the provision of market and affordable housing remain pertinent, and there is no justification in this case for withholding permission.
67. The proposal would accord with the policies of the development plan and there are no material considerations that indicate otherwise. For the reasons given above, and having taken all matters raised into account including the concerns raised by interested parties, I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

²² It is not engaged in this case, as the LPA can demonstrate a 5 year supply of deliverable housing supply sites and thus Para. 49 of the Framework does not engage Para 14 of the Framework.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Alexander Booth of Queens Counsel	Instructed by the Solicitor to Central Bedfordshire Council
<i>He called:</i>	
Scott Lawrence	ORS
Phillip Hughes	Planning Consultant PHD Planning

FOR THE APPELLANT:

Giles Cannock, Barrister	Instructed by Chris Still of Gladman Developments Ltd
<i>He called:</i>	
Tom Baker	OAN
Neil Tiley	Housing Supply
Tim Jackson*	Landscape
Chris Still	Planning

*The written proof of evidence of Mr Rech, who was unable to attend the Inquiry, was adopted by Mr Jackson, who was cross-examined on its content.

DOCUMENTS SUBMITTED AT THE INQUIRY

LPA1	List of Agreed suggested conditions
LPA2	Central Bedfordshire Council – Delivery of houses against operable housing need target
LPA3	Local Development Scheme (November 2017)
LPA4	Opening submissions on behalf of Central Bedfordshire Council
LPA5	Five year land supply statement for the five year period commencing 1 st October 2017
LPA6	Closing submissions on behalf of Central Bedfordshire Council
APP1	Undated copy of Section 106 Agreement
APP2	Response to OAN Rebuttal Proof of Evidence of Scott Lawrence
APP3	Market Signals table
APP4	Opening submissions of the Appellant
APP5	Closing submissions of the Appellant
APP6	Copy of S106 Agreement (unilateral undertaking) dated 10 November 2017

DOCUMENT SUBMITTED AFTER INQUIRY

AI1	Appeal decision ref APP/P0240/W/16/3152707, Former Readshill Quarry, Back Street, Clophill, Central Bedfordshire MK45 4AE: Dismissed
AI2	LPA comments on 3152707 dated 4 December 2017
AI3	Appellants comments on 3152707 (undated) emailed 5 December 2017

Appendix A – List of conditions imposed

- 1) Application for the approval of the reserved matters shall be made to the local planning authority within three years from the date of this permission.
- 2) The development shall begin not later than two years from the final approval of the reserved matters or, if approved on different dates, the final approval of the last such matter to be approved.
- 3) Details of the layout, scale, appearance (including materials) and landscaping, including boundary treatments for each serviced plot (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development on that plot begins and the development shall be carried out as approved.
- 4) Any application for reserved matters shall include details of the existing and final ground, ridge and slab levels of the buildings. The details shall include sections through both the site and the adjoining properties and the proposal shall be developed in accordance with the approved details.
- 5) The development hereby permitted shall not be carried out except in accordance with the parameters shown on the submitted plans, numbered: 7076-L-02Q, P16014-001A and 7076-L-01.
- 6) The landscaping details required to be submitted by Condition 3 of this permission shall include details of hard and soft landscaping (which shall include the landscape buffer along the edge of the site), together with a timetable for its implementation and maintenance for a period of 5 years following implementation. The scheme shall also include an up to date survey of all existing trees and hedgerows on and adjacent to the land, with details of any to be retained (which shall include details of species and canopy spread); measures for their protection during the course of development should also be included. Such agreed measures shall be implemented in accordance with a timetable to be agreed as part of the landscaping scheme. The development shall be carried out as approved and in accordance with the approved timetable.
- 7) Prior to the submission of any reserved matters application a Development Parameters Scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall set out guiding principles to be applied in the design of any dwelling, associated structures, hard surfaces and landscaping to be constructed pursuant to this planning permission. The scheme shall include, but not be limited to: maximum building height, built form, materials, plot coverage, set back from plot boundaries, boundary treatment, access and parking facilities and, protection of existing trees and hedges. The design of each dwelling the subject of this permission shall be developed in accordance with the approved Development Parameters Scheme.
- 8) Any application for reserved matters shall include a delivery timetable for the implementation of all ecological measures and/or works contained in the Ecological Appraisal; Potton Bat Survey Report; Potton Reptile Survey Report, Grassland Survey Report, Grassland Management and Enhancement Plan. The

- delivery timetable shall be submitted to and approved in writing by the local planning authority. The development shall be carried out as approved and in accordance with the approved delivery timetable.
- 9) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority for the provision of fire hydrants at the development. Prior to the first occupation of the permitted dwellings the fire hydrants serving that development shall be installed and retained thereafter as approved.
- 10) No development shall commence until a detailed surface water drainage scheme for the site, based on the agreed Flood Risk Assessment (FRA: 15-1120, 2016) has been submitted to and approved in writing by the local planning authority. The scheme shall include details of a site-specific ground investigation report (in accordance with BRE 365 standards or equivalent) to determine the infiltration capacity of the underlying geology and ground water level, as well as details of how the scheme shall be maintained and managed after completion. The scheme shall include provision of attenuation and a restriction in run-off rates as outlined in the FRA. The scheme shall be implemented in accordance with the approved final details before the development is completed.
- 11) No development shall commence until a management and maintenance plan for any surface water drainage measures and their long term maintenance in relation to Condition 10 of this permission has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved final details before the development is completed and shall be managed and maintained thereafter as approved.
- 12) No development shall commence until details of the estate road access onto Biggleswade Road which shall take the form of a raised table junction, has been submitted to and approved in writing by the local planning authority. The access shall be constructed and completed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 13) Any subsequent reserved matters application(s) shall include the following written details, which shall be implemented as approved:
- Estate roads designed and constructed to a standard appropriate for adoption as public highway and;
 - Pedestrian and cycle linkages to existing routes and;
 - Vehicle parking and garaging in accordance with any local standards or equivalent applicable at the time of submission and;
 - Cycle parking and storage in accordance with the any local standards or equivalent applicable at the time of submission.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. a Construction Traffic Management Plan detailing access arrangements for construction vehicles and the routing of construction vehicles;

- iv. storage of plant and materials used in constructing the development;
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi. wheel washing facilities;
- vii. measures to control the emission of dust and dirt during construction;
- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 15) Any application for Reserved Matters shall include a scheme for protecting the proposed dwellings from adverse odour from the local sewage treatment works, following the 60m stand-off and other recommendations in the submitted July 2016 Wardell Armstrong Odour Assessment. None of the dwellings shall be occupied until the scheme has been implemented in accordance with the approved details and it shall be retained in accordance with those details thereafter.
- 16) The details to be submitted as part of the reserved matters required by condition 3 of this permission will include a Materials Recovery Plan (MRP). The MRP will assess areas of construction where minerals would be recoverable, such as from groundworks, sustainable drainage systems, landscaping areas. The MRP should, as a minimum, balance as far as possible the mineral recovered from these operations with site construction activity which would consume aggregate, such as road sub-bases, granular fill, bunding required, and mortar. The MRP should consider the extent to which mineral available on site would meet the specifications required for construction. The development shall thereafter be carried out in accordance with the approved MRP.

****END OF CONDITONS****