



Appeal Decision

Inquiry Held on 28 - 30 November, 1 December 2017 and 20-21 March 2018.
Site visit made on 21 March 2018.

by Helen Hockenhull BA(Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2018

Appeal Ref: APP/P0240/W/17/3176387

Land west of Astwick Road, Stotfold, SG5 4BG

- 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 Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/04161/OUT, dated 25 August 2016, was refused by notice dated 21 February 2017.
 - The development proposed is up to 100 residential dwellings (including up to 35% affordable housing), demolition of buildings, introduction of structured planting and landscaping, informal open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Astwick Road and associated ancillary works. All matters to be reserved except for main site access onto Astwick Road.
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Decision

1. The appeal is allowed and planning permission is granted for up to 100 dwellings (including up to 35% affordable housing), demolition of buildings, introduction of structured planting and landscaping, informal open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Astwick Road and associated ancillary works on land west of Astwick Road, Stotfold, SG5 4BG in accordance with the terms of the application, Ref CB/16/04161/OUT, dated 25 August 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal proposal is in outline with all matters reserved for later approval except for the matter of access. The submitted Development Framework Plan is for indicative purposes only and I have considered it accordingly.
3. A Statement of Common Ground (SoCG) dated 27 November 2017 was submitted before the Inquiry. In addition a further SoCG dated 28 November 2017 with regard to Five Year Housing Land Supply was submitted at the commencement of the event.
4. After the Inquiry sat on 1 December 2017 and before the Inquiry reconvened on 20 March 2018, an appeal decision for a site at Potton¹ was issued. I requested that the main parties provide further written statements with regard

¹ Appeal Ref APP/P/0240/W/17/3176444 64 Biggleswade Road, Potton

to the implications of this appeal for their respective cases. This culminated in a Supplementary Statement of Common Ground dated 7 March 2018 in which the appellant changed his position with regard to the Objectively Assessed Need (OAN) for Central Bedfordshire. It is now a matter of common ground between the parties that for the purposes of this appeal, 32,000 homes over the period 2015-2035 (i.e. 1600 dwellings per annum) represents the OAN for Central Bedfordshire.

5. A draft planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) was submitted at the Inquiry. The obligation related to the provision of affordable housing and financial contributions towards education provision, footway widening works on Astwick Road, right of way improvements, off site playing pitch provision, waste recycling provision and the provision and management of open space and sustainable urban drainage. A signed and dated agreement was provided immediately after the event.
6. Evidence submitted by both parties in this appeal makes reference to a proposed residential development on land between Taylor's Road and Astwick Road, Stotfold². This scheme was granted planning permission on appeal however the decision was challenged and I am advised has now been quashed. The appellant's witnesses confirmed at the Inquiry that they do not rely on this decision but make their own assessment of the relevant issues.
7. A further relevant appeal decision at Meppershall³ was issued on 12 March 2018 before the Inquiry reconvened and another decision for a site at Mill Road, Cranfield⁴ was issued on 28 March 2018 during the event. The implications of both these decisions were addressed during the event.
8. After the close of the Inquiry two appeal decisions were issued for a site in Silsoe⁵ and another decision at Crawley Road, Cranfield⁶. I sought the views of the parties have taken these into account in my decision.

Main Issues

9. The appeal was refused for two reasons. The second reason related to the absence of a legal agreement to secure affordable housing and financial contributions to mitigate the impacts of the development on local infrastructure. As noted above, an agreement was provided by the appellant as part of the appeal. Accordingly the Council advised at the Inquiry that they no longer wished to pursue this second reason for refusal.
10. In light of the above and having regard to all that I have read and heard, I consider that the main issues in this case are:
 - the effect of the development on the character and appearance of the landscape;
 - the contribution to the provision of housing ;

² Appeal Ref APP/P0240/W/16/3166033, Land between Taylor's Road and Astwick Road north of 51 Astwick Road, Stotfold SG5 4AQ

³ Appeal Ref APP/P0240/W/17/3175605, 100 High Street, Meppershall, Central Bedfordshire

⁴ Appeal Ref APP/P0240/W/17/3181269, Land off Mill Road, Cranfield, Bedfordshire

⁵ Appel Ref APP/P0240/W/17/3170248 and 3172143, Land east of High Street, Silsoe

⁶ Appeal Ref APP/P0240/W/17/3186914, Land situated between Crawley Road and Bourne End Road, Cranfield

- whether the proposed development would preserve or enhance the setting of the Astwick Conservation Area;
- the effect of the development on Best and Most Versatile (BMV) agricultural land.

Reasons

The development plan

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that development proposals should be determined in accordance with the development plan unless material considerations indicate otherwise.
12. The adopted development plan for the area in which the appeal site is located is the Central Bedfordshire Core Strategy and Development Management Policies Development Plan Document (DPD) 2009 (the Core Strategy), the saved policies of the Mid Bedfordshire Local Plan First Review 2005 and the Site Allocations DPD 2011. These documents all pre date the National Planning Policy Framework (the Framework). Paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with those in the Framework.
13. Core Strategy Policy DM4 provides that beyond settlement envelopes limited extensions to gardens will be permitted provided that they do not harm the character of the area. There is no dispute between the parties that the appeal site lies outside the settlement envelope of Stotfold within open countryside and therefore the appeal proposal conflicts with this policy.
14. There is also common ground between the parties that Policy DM4 is not fully consistent with the Framework. This lack of consistency stems from Policy DM4 being a very restrictive policy which gives protection to the countryside rather than recognising its intrinsic character and beauty in line with paragraph 17 of the Framework. The settlement envelopes were drawn tightly around existing development in the settlements and date from 2009. They were drawn up to accommodate a constrained housing supply set out in the now revoked Regional Spatial Strategy (RSS) 2001-2026. Therefore they were derived to meet a now out of date housing requirement, which does not relate to the current planning context or provide for the boroughs objectively assessed housing need. Given the requirement for 32,000 homes between 2015-2035, it is inevitable that further greenfield sites outside settlements will be required. The Council acknowledges that this is the case. These factors lead me to the conclusion that the settlement envelopes are out of date.
15. This is further evidenced in the Council's housing land supply in that around 71% of sites lie outside the settlement envelopes⁷. I am also aware that the Council have granted planning permission for a number of homes outside the settlement envelopes at Stotfold and at other settlements. It seems clear to me that applying the restraints of Policy DM4 would not enable the Council to meet its future housing needs. This reinforces my view that the settlement envelopes, and therefore Policy DM4, are out of date.
16. An appeal decision at Langford⁸ where the Council themselves conceded that

⁷ Mr Still's Proof of Evidence Paragraph 6.6.8

⁸ Appeal ref APP/P0240/A/14/2228154, Land to the East of Station Road, Langford, Bedfordshire

Policy DM4 was out of date (though this is not their case in this appeal) supports this view. So too do appeal decisions at Flitton⁹ and Silsoe. In an appeal decision at Meppershall, the Inspector also found that DM4 was out of date, however her reasoning incorrectly interpreted paragraph 215 of the Framework. Conversely other Inspectors have found that Policy DM4 is not out of date, for example at Clophill¹⁰ and Mill Road, Cranfield.

17. There is clearly a lack of consistency in appeal decisions. This may be reflective of the different arguments and evidence presented in each case. I have not been provided with the full details of this evidence; however I understand that the appellant put forward the same arguments in the Silsoe appeal as advanced in this case. On the basis of the detailed evidence before me, and for the reasons outlined above, I conclude that Policy DM4 is out of date. I shall address later in this decision the implications of my finding for paragraph 14 of the Framework and the approach to decision taking.
18. The weight to be given to Policy DM4 having regard to the advice in paragraph 215 of the Framework, is a further matter of dispute between the parties. The Council's position is that moderate weight should be attributed to this policy. This stance is supported by recent appeal decisions at Potton, Meppershall and Crawley Road, Cranfield. In arguing that this policy should be given less than limited weight, the appellant cites the Mill Road, Cranfield decision, where the Inspector stated that he regarded the attribution of moderate weight as 'generous'. I note that in the recent Silsoe decision, the Inspector accorded Policy DM4 limited weight.
19. I have already set out the level of protection that Policy DM4 gives to the countryside and the inconsistency with paragraph 17 of the Framework in paragraph 14 above. Furthermore in constraining housing development to the settlement boundaries as defined, Policy DM4 fails to significantly boost the supply of housing to meet currently assessed needs in the housing market area. Having regard to all the above factors, I conclude that limited weight should be attributed to the conflict with this policy.
20. A new Local Plan for Central Bedfordshire is under preparation. At the time of the Inquiry the pre submission Local Plan was the subject of consultation. This document proposes 32,000 homes to meet the objectively assessed need of Central Bedfordshire and 7350 dwellings to contribute towards the unmet need of Luton. Given the early stage this plan has reached, I agree with the main parties that limited weight should be attributed to it for the purposes of this appeal.

Landscape character and visual amenity

21. The appeal site forms two flat arable fields separated by a ditch and a hedge. The site is bounded to the north east by a cluster of 5 residential dwellings on Astwick Road and to the south east by further residential properties on Danes Close. The Fen End Industrial site lies to the south. Close to the north west corner of the site is an existing telephone mast, which together with the existing dwellings and industrial buildings exert an urban influence on the site.
22. The site has no landscape quality designations and both main parties agree it is not a valued landscape in terms of paragraph 109 of the Framework.

⁹ APP/P0240/W/16/3154220 Land off Greenfield Road, Flitton.

¹⁰ Appeal ref APP/P0240/W/16/3152707, Former Readshill Quarry, Back Street, Clophill, Central Bedfordshire

23. The appeal site lies within National Character Area 87 - East Anglian Chalk (NCA). This is characterised by rolling downland, mostly in arable production with sparse tree cover. Within the Central Bedfordshire Character Assessment the site lies within Landscape Character Area 4c 'The Upper Ivel Clay Valley'. This recognises the flat nature of the landscape which results in some long views over large scale open arable fields contrasting with more intimate small scale pastures along the courses of the Ivel and Hiz. It is described as a fragmented landscape, with the immediate river corridors hidden by buildings and woodland and the wide views over the level arable fields sometimes interrupted by abrupt settlement edges.
24. Core Strategy Policy CS16 seeks to conserve and enhance the varied countryside character and local distinctiveness in accordance with the findings of the LCA. Policy DM14 supports the principles of Policy CS16. It follows a hierarchical approach, seeking to provide the highest level of protection to the Chilterns AONB, then the Greensand Ridge and Flit Valley, the Northern Marston Valley, Forest of Marston Vale and the urban fringe. It also aims to ensure that planning applications are assessed against the impact the proposed development would have on the landscape, using the LCA to determine the sensitivity of the landscape and the likely impact. The policy goes on to state that in the Ivel Valley proposals will be required to provide landscape enhancement on or adjacent to the development site.
25. The appellant argues that Policies CS16 and DM14 are not fully consistent with paragraph 17 of the Framework as the supporting text to the Policy states that the Council will protect the countryside for its own sake. However there is case law that ordinary countryside is still afforded some protection in the Framework¹¹. In conserving and enhancing character and distinctiveness, these policies recognise the intrinsic character and beauty of the countryside and seek to take account of the different roles and character of different areas. Furthermore Policy CS16 recognises the protection given to landscapes commensurate with their status, reflecting paragraph 109 and 113 of the Framework. I therefore conclude that these policies are broadly consistent with the core principles of the Framework and that they should attract significant weight.
26. The appellant submitted a Landscape and Visual Impact Assessment (LVIA) with the application to which I have given careful consideration. Given the relatively flat open landscape of the area, the appeal site would be visible in longer distance views. Whilst it would be possible to see the site from local high points such as Topler's Hill, the development would be seen in the context of the settlement. I have also noted other approved and completed schemes to the north of Stotfold¹², which reinforce the relationship of the site to the settlement. From Arlesey Road to the south west, the site would be seen across open fields with intervening hedgerows on field boundaries. These would filter views from this viewpoint.
27. On my site visit, looking southwest from Footpath 8, I noted the distance separating the settlements of Astwick and Stotfold and the presence of planting on field boundaries. It is my assessment that the development would be seen as part of Stotfold. Whilst the rooftops of the proposed dwellings would be likely to be visible above the field hedgerows, this would be in the backdrop of

¹¹ Cawrey Ltd v SSCLG and Hinckley and Bosworth BC EWHC 1198 (Admin)

¹² Development Context Plan Appendix 2 to Mr Holliday's Proof of Evidence

the buildings on the industrial estate and the cottages on Astwick Road. The existing vegetation and the proposed landscaping scheme would assist to screen the site resulting in limited adverse harm to the landscape once planting matures. I therefore conclude that the development would not result in coalescence of the two settlements.

28. The landscaping scheme shown indicatively on the Development Framework Plan, illustrates a large planted area to the north west boundary of the appeal site and significant new planting to the south west. These boundaries would become the new settlement edge. The current edge of Stotfold has very little landscaping treatment. It is very much representative of the abrupt edge described in the LCA of the Upper Ivel Clay Valley. The planting proposed in the appeal scheme would provide an enhancement to the landscape of the valley and would assist to soften views of the proposed development and the wider settlement.
29. The Stotfold Green Infrastructure Plan 2009, endorsed by the Council and Stotfold Town Council, identifies aspirations and proposals from community members to enhance the local green infrastructure. These include priorities to maintain existing create new assets. The aspirations identified are shown on a Green Infrastructure Map. The appeal site is not identified, though land immediately to the north west is shown as an existing landscape to be protected retaining existing views. This suggests the appeal site is of lesser sensitivity. This leads me to agree with the appellant's assessment that the site lies in a low-medium sensitivity landscape. It is proposed that 35% of the appeal site would deliver green infrastructure. This would accord with the aims of the Green Infrastructure Plan and satisfy the requirements of Core Strategy Policy DM17 which seeks to achieve a net gain in green infrastructure.
30. The Central Bedfordshire LCA provides guidance for new development in the Upper Ivel Clay Valley. This seeks to resist development that would result in the further loss or fragmentation of hedgerows, safeguard the rural character and qualities of the Ivel Valley, plant further woodland creating a more rural edge to development on the margins of villages, enhance landscape boundaries at exposed urban edges and safeguard the distinctive character of Astwick. The proposed development would retain as much hedgerow as possible, provide a softer urban edge to Stotfold, include new tree planting and retain the character of Astwick by maintaining the separation between the two settlements. Therefore I conclude that the proposed development would accord with the LCA guidance.
31. Turning to the matter of visual impact, views into and of the site are relatively localised. Residents occupying residential properties on Danes Close, would experience a significant change as open views from rear windows would be replaced by views of the development. Residents in the cottages on Astwick Road would view the proposed development obliquely from side windows and from rear gardens. In both cases the provision of garden planting and boundary landscaping would assist to screen the development and filter views.
32. Travellers on Astwick Road heading north would have an increased feeling of urbanisation as the gap between Stotfold and the cottages is removed. However this would be for a relatively short distance, around 90 metres, and much of the boundary hedge would be retained save for that needed for the access.

33. The proposed development would have the greatest impact on Bridleway 18 which runs parallel to the south west boundary. Currently the bridleway provides an edge of settlement experience with initial views of development in the settlement leading to wide open agricultural views to the north. Users of the route, as they walk or ride close to the boundary of the appeal site would for a short distance, experience the loss of longer distance views to Topplers Hill, the water tower and wind farm. Whilst close distance views over the appeal site would also be lost, open views to the west would still be achievable.
34. The Council have argued that the proposal would result in users of the bridleway being enclosed in a tunnel. The illustrative sections for this site boundary provided by the appellant¹³ show a hedge on the development side of the bridleway, an area of grassland and then a further area of planting before the commencement of the built development on the site. The other side of the bridleway adjoins open fields and is bounded by a hedge which all parties agree is not continuous but has a number of open gaps.
35. I accept that a walker or rider on the bridleway would have a different experience, though this would be limited to the short stretch of the route which runs alongside the proposed development. Taking account of the proposed boundary planting of around 15 metres in width and the extent of roadway before the actual commencement of built development, I am satisfied that the route would not be unacceptably enclosed.
36. In summary, the proposed development would be viewed as a continuation of the settlement of Stotfold. Landscaping and planting proposed would soften and filter views and create a new settlement edge resulting in no significant adverse harm to the character and appearance of the area once planting has matured. Accordingly the proposal would comply with Core Strategy Policies CS16, DM14, CS17 and DM3.

Contribution to the provision of housing

Housing requirement

37. There is agreement between the main parties that the housing requirement for Central Bedfordshire contained in the adopted development plan is out of date.
38. As stated earlier in this decision, the appellant changed his position with regard to housing need during the Inquiry, accepting the Council's evidence that the OAN for Central Bedfordshire should be 32,000 dwellings for the period 2015-2035. This is derived from the most up to date Strategic Housing Market Assessment (SHMA) published by the Council in July 2017. The annual OAN for the purposes of this appeal is therefore 1600 dwellings. There is also common ground that the unmet housing need for Luton should not be added to the OAN for Central Bedfordshire when calculating the 5 year housing land supply.
39. There remain two areas of dispute between the parties with regard to housing land supply, firstly the correct buffer to be applied and secondly whether the supply identified by the Council meets the annualised OAN figure with the relevant buffer. I shall address these matters below.

¹³ Appendix 9 Mr Holliday's Proof of evidence

Buffer

40. The Framework in paragraph 47 requires a 5 year supply of deliverable sites against the housing requirement with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%.
41. The Council has provided evidence of delivery over the last 6.5 years, the time in which the authority has been in existence. I accept that it is good practice to take a longer term view to take account of peaks and troughs in the housing market cycle¹⁴. This approach is supported in a number of appeal decisions¹⁵. However in this case in order to do that the Council would be relying on data published by two other local planning authorities which no longer exist. The appellant has pointed out that Central Bedfordshire Council has used this monitoring data in the past, for example in the Council's Proof of Evidence at the Henlow¹⁶ appeal. However I note that this was in 2014 when the relatively new authority had little data of its own available.
42. In any event, the data that has been provided by the Council indicates that the OAN has been met and exceeded in four out of the last six years since 2011/12 and in one year, 2013/14 only fell short by 0.3%. An indication of current performance is given by the half year data for 2016/17, where the target was being significantly exceeded (936 dwellings delivered against a pro rata requirement of 800 dwellings). This does not indicate to me that the Council has been persistently under delivering.
43. The appellant also challenges the operative OAN figure of 1280 dwellings per annum in the period 2011-2014 against which delivery has been assessed. This figure is derived from the 2014 SHMA. The higher figure he suggests, 1475 dwellings, emanates from the later 2015 SHMA. There is agreement between the parties that the appropriate figure against which to judge the housing supply since 2011 is the OAN, rather than the previous RSS figure. The earliest OAN figure per annum which was identified for Central Bedfordshire was the 1280 figure. Whilst I accept that using this figure to assess delivery in 2011-2013 results in an element of retro fitting, I consider it forms the closest available figure for this period and therefore the most appropriate against which to assess delivery.
44. In conclusion, I consider that the Council has not shown a persistent under delivery and therefore a buffer of 5% should be applied.

Housing supply

45. In this regard the appellant disputes two matters. Firstly evidence has been presented to question the deliverability of five sites contributing towards the 5 year housing land supply. Secondly the appellant argues that 585 dwellings from the Houghton Regis site, located in the Green Belt, where planning permission was granted in 'very special circumstances' to meet Luton's need, should not be counted towards Central Bedfordshire's supply.
46. It is common ground between the parties that if a 5% buffer is to be applied,

¹⁴ PPG Paragraph :035 Reference ID:3-035-20140306

¹⁵ Mr Tiley's Proof of Evidence paragraph 8.7

¹⁶ CD 10.03

the Council would be able to demonstrate a 5 year housing land supply on the basis of either case. On the appellant's figures, the supply would be 5.22 years and on the Council's, it would be slightly greater at 5.57 years. It is therefore unnecessary for me in this case, to deliberate further on the two areas of dispute put forward by the appellant. They are not determinative to my overall conclusion that the Council can demonstrate a five year supply of housing land. I shall return to the contribution the appeal scheme makes to the provision of housing in the planning balance.

Astwick Conservation Area

47. The village of Astwick lies to the north east of the appeal site. It forms an attractive rural hamlet which was designated a conservation area in 1979.
48. Core Strategy Policies CS15 and DM13 aim to protect and conserve the district's heritage. However these policies pre date the Framework. They do not require that any harm be weighed against the public benefits of a scheme. Policies CS15 and DM13 are therefore inconsistent with the Framework. Accordingly the parties agreed at the Inquiry that greater weight should be attributed to the Framework in this regard.
49. The Framework in paragraph 132 states that in considering the impact on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
50. The significance of the conservation area derives from a number of architectural, historic and environmental factors which are described in the Conservation Area Appraisal (CAA). Whilst many of these factors relate to the historic buildings within the conservation area, of most significance in the appeal case, is the location of the small rural hamlet in a wide countryside setting with extensive views to open countryside. The Character Appraisal Map within the CAA, highlights a 'significant view' out of the conservation area to the south of the village. This runs in the general direction of Footpath 8 looking towards the appeal site.
51. The southern boundary of the conservation area comprises mature landscaping which runs along the River Ivel. I noted on my site visit that this planting generally restricts views both out of and into the conservation area. The CAA makes no written reference to this southern view, in fact in paragraph 6.8 states that from the south, the village is entirely hidden behind trees.
52. I accept that the rooftops of houses within the proposed development would be likely to be visible from the 'significant view'. However the site would be seen in the distance, behind a hedgerow with intervening open land and in the context of the cottages on Astwick Road and the buildings of the Fen End Industrial area. Whilst the view may change, I am satisfied that the proposed development would cause no harm to the significance of the heritage asset, with reference to its setting. The appeal scheme would therefore comply with the Framework, in particular section 12, which seeks to conserve and enhance the historic environment.

Agricultural Land

53. The appeal site comprises part grassland (0.2ha) and part arable land (5.3ha).

The Soil Report submitted by the appellant indicates that the site is Class 3a, and it therefore forms BMV agricultural land. This is not contested by the Council.

54. The Framework in paragraph 112 states that local planning authorities should take into account the economic and other benefits of BMV agricultural land. Furthermore it is stated that where the development of significant agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality in preference to that of higher quality.
55. The agricultural part of the site, around 5.1 hectares, would not pass the 20 hectare threshold for the development to be the subject of consultation with DEFRA. Whilst this threshold may be passed if I were to consider all the sites the appellant is promoting in the borough cumulatively, there is no requirement for me to assess the matter on this basis. The emerging local plan makes reference to the fact that 34% of land in the District forms Grade 1 or 2 agricultural land and 42% comprises Grade 3a, a total of 77%. It would therefore be inevitable in order to meet the needs for housing in the borough, that BMV agricultural land would be required. Furthermore it is clear that the Council rely on a number of BMV sites within the 5 year housing land supply.
56. With regard to the economic impacts of the use of Grade 3a agricultural land, the scheme would not sever a landholding or make an agricultural unit unviable. The only economic impact in this case would be the loss of agricultural production.
57. In light of the above factors, I conclude that the loss of BMV would not be significant in economic terms and I afford limited weight to the harm resulting from the proposed development.

Other matters

58. Concern has been raised by local residents and Stotfold Town Council with regard to the increased number of vehicles that the scheme would generate and the exacerbation of existing traffic problems particularly at peak times. The site is in an accessible location with access to the public transport network and the ability to walk and cycle to local shops and services. There are no objections from the Highway Authority subject to the imposition of conditions. I am satisfied that there would be no significant adverse traffic impacts associated with the development and no risk to road safety.
59. Further concern with regard to the pressure on local schools was made by the Town Council. I deal with this in the section below.
60. The Town Council also expressed concern about surface water drainage and highlighted the high water table in the area. The application was accompanied by a Flood Risk Assessment which also set out a surface water drainage strategy for the site. The document outlines proposals for the use of infiltration techniques where site conditions allow and piped systems to an attenuation basin. These measures would control surface water run off to green field rates and result in no increased risk of flooding. I am therefore satisfied that an appropriate surface water strategy can be delivered and secured through conditions.

Planning Obligation

61. The completed section 106 agreement contains a number of obligations. It secures the payment of a financial contribution in relation to Early Years, Lower, Middle and Upper School development projects in the catchment area of the appeal site. I am satisfied that this will meet the need of the development. A financial contribution towards the widening of the footpath along Astwick Road is required to facilitate a safe pedestrian route to the settlement. The obligation also secures the payment of sums to contribute towards additional playing pitch space and the resurfacing of Bridleway 18, thereby ensuring adequate recreational provision for future residents of the development. A waste and recycling contribution ensures that appropriate waste management facilities are provided in the development. The obligation also secures 35% affordable housing provision in order to ensure compliance with Core Strategy Policy CS7 and meet the needs of the borough. Furthermore the obligation provides for the laying out and management of public open space on the site and the provision and management of a sustainable urban drainage system.
62. These contributions are necessary and meet the policy tests set out in the Framework and the statutory test set out in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The pooling restrictions of regulation 124 of the CIL regulations are also met. I have therefore taken these obligations into account in my decision.

Planning balance

63. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine the appeal in accordance with the development plan unless material considerations indicate otherwise. This principle is also reiterated in the Framework¹⁷ which is of course a material consideration to which substantial weight should be attached.
64. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development and explains what it means for decision taking. In the first bullet point it states that this means approving development proposals that accord with the development plan without delay. In the second bullet point this means that where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted. This latter consideration does not apply in this case.
65. I have concluded that the proposal would result in no significant adverse harm to the character and appearance of the area and would comply with Core Strategy Policies CS14, CS16, CS17, DM14 and CS3. However I have found conflict with Core Strategy Policy DM4, though as I have explained in paragraph 19 of this decision, I attribute limited weight to the conflict with this policy.
66. As I have found that, in the context of paragraph 49 of the Framework, a 5 year housing land supply can be demonstrated, policies for the supply of housing are not out of date. However the 'tilted balance' can apply if other policies of

¹⁷ Paragraphs 11, 12, 196

the development plan are out of date, irrespective of whether there is a 5 year housing land supply. As I have found this to be the case in respect of Policy DM4, the 'tilted balance' is engaged.

67. Turning to the benefits of the scheme, the proposal would provide 100 dwellings contributing to the housing need in Central Bedfordshire. I attach significant weight to this contribution. The scheme would also provide 35 affordable homes. I note the view of the Inspector in the Meppershall appeal that where affordable housing is provided in compliance with policy, this should attract only limited weight. However I have been provided with evidence that there is a shortfall in the delivery of affordable housing in the borough (around 598 dwellings over the period 2012/13 – 2015/16¹⁸). The appeal proposal would assist to meet this deficit and I therefore attach significant weight to this benefit. This is regardless of any possible benefits in meeting unmet need in Luton.
68. In respect of economic benefits I acknowledge that future residents of the development would make use of local services and support the local economy. I attribute moderate weight to this benefit. The scheme would also result in direct and indirect employment and create a demand for building supplies during the construction phase. However due to the short term nature of these benefits I give them limited weight.
69. With regard to environmental matters, I have found that the proposal would comply with landscape Policies CS16 and DM14. I have also found that the development would cause no harm to the significance of Astwick Conservation Area. I attach neutral weight to these factors. Green infrastructure to be provided within the scheme and areas of new planting and landscaping are primarily designed to mitigate the impact of the development, though I recognise that they provide some recreational and biodiversity benefit. I therefore give them limited weight. The loss of BMV agricultural land as a result of the development would result in limited harm.
70. In regard to other matters, I have concluded that the proposal would cause no significant impacts in terms of highway safety, no unacceptable impacts on local infrastructure such as schools and cause no increased risk of flooding.
71. Bringing all the above together in the final balance, I consider that the adverse impacts would not significantly or demonstrably outweigh the benefits. The proposal therefore constitutes sustainable development as defined in the Framework. The factors above provide the material considerations to grant planning permission other than in accordance with the development plan. I therefore allow the appeal.

Conditions

72. The Council provided a list of revised conditions for my consideration and the appellant provided a table of his comments with suggested alternative wording and additional conditions. These were discussed at the Inquiry. I have considered them in light of the advice in the Framework. I have revised the wording as discussed at the Inquiry and where necessary made amendments in the interests of clarity and enforceability. The numbers in brackets relate to the conditions I have imposed in the attached schedule.

¹⁸ Mr Tiley's Proof of Evidence Table 15.1

73. In the interests of good planning it is necessary to impose conditions setting out time limits for development and the submission of reserved matters (conditions 1-3). I also impose conditions defining the approved plans (condition 4) and restricting the number of dwellings to 100 (condition 5) for the avoidance of doubt.
74. Condition 6 relates to the submission of reserved matters to ensure that the details submitted provide a satisfactory form of development. As discussed at the Inquiry, this replaces a number of separate conditions previously suggested by the Council. The appellant has suggested a condition requiring the development to proceed in accordance with the submitted Development Framework Plan. I consider that this would be necessary to ensure a design led approach to the development, incorporating significant areas of green infrastructure (condition 7). I have amended the wording to require broad accordance with the plan in light of the outline nature of the application.
75. The submission of an Ecological Enhancement Plan is required to ensure the protection and enhancement of biodiversity (condition 8). In order to ensure a satisfactory foul and surface water drainage scheme condition 9 is necessary. In the interest of highway safety conditions regarding the highway works, including pavement widening works and visibility splays are required (conditions 10 and 11).
76. In order to safeguard the living conditions of nearby and future residents during construction, to control pollution and protect existing trees and landscaping on the site, a construction method statement is necessary (condition 12). I have not included reference to the protection of birds during the nesting season or the retention and protection of trees as this forms part of the Ecological Enhancement Plan the subject of condition 8. Condition 13 requires the submission of a travel plan which is necessary to ensure sustainable development.
77. In order to safeguard the development from possible contaminated land it is necessary to impose condition 14. I impose the appellant's wording as the condition suggested by the Council appeared overly onerous having regard to the fact that the site is greenfield, formerly in agricultural use with a low risk on site contamination.
78. A condition requiring a scheme of archaeological recording is necessary (condition 15) in order to appropriately record any finds on the site. A condition regarding the provision of fire hydrants is required so that adequate infrastructure provision is installed (condition 16). As a result of the sites location near to the Fen End Industrial Estate, the appellant has suggested a condition to require noise mitigation to safeguard the living conditions of future residents. I consider this would be necessary (condition 17).
79. The Council suggested the imposition of a condition with regard to renewable and low carbon energy and water efficiency. However I am not satisfied that this would be enforceable and therefore I do not impose it. The appellant suggested a condition with regard to the provision of public open space in the development. I have not imposed this as I am satisfied that this provision and its future management is provided for within the submitted section 106 agreement.

Conclusion

80. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should succeed.

Helen Hockenfull

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Alexander Booth Of Queen's Counsel, instructed by the Solicitor to Central Bedfordshire Council.

He called:

Phillip Hughes BA
(Hons)MRTPI Dip Man MCIM

Principal, PHD Chartered Town Planners

Scott Lawrence
BEng (Hons)

Senior Researcher, Opinion Research Services (ORS)

FOR THE APPELLANT:

Giles Cannock of Counsel

Instructed by Mr C. Still, Planning and Development Manager, Gladman Developments Ltd

He called:

Tom Baker MRTPI

Associate GVA

Neil Tiley
Assoc RTPI

Associate, Pegasus Group

Gary Holliday
BA (Hons) MPhil CMLI

Partner fpcr

Gail Stoten BA (Hons)
MCIFA FSA

Heritage Director, Pegasus Group

Christopher Still
BSc (Hons) MRICS

Planning and Development Manager
Gladman Developments Ltd

INTERESTED PERSONS

Brian Collier

Deputy Mayor, Stotfold Town Council

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Draft section 106 agreement.
2. Signed and dated Statement of Common Ground, 27 November 2017.
3. Signed and dated Statement of Common Ground on Housing Land Supply, 28 November 2017.
4. Appeal decision ref APP/C1570/W/17/3168869, Land off Little Walden road, Saffron Walden, Essex dated 21 August 2017.
5. Appeal decision Ref APP/K0235/W/17/3167566, Land north of Lower Farm Road, Bromham, Bedford, MK43 8JB, dated 5 October 2017.
6. Cotswold District Council v Secretary of State for Local Government and Hannick Homes and Development Ltd [2013] EWHC 3719 (Admin).
7. Schedule of Conditions - Appellant's comments.
8. Opening Submissions by the Appellant.
9. Opening submissions by the Council.
10. Email dated 27 November from Taylor Wimpey to the Council with regard to the Clipstone Park site.
11. Mr Collier's evidence – plan of proposed Pix Brook Academy and 1925 Ordnance Survey Map of Stotfold.
12. Bus timetable for route 97 provided by Mr Collier.
13. Plan for site visit.
14. Central Bedfordshire Pre submission Local Plan 2015-2035 dated January 2018.
15. Appeal decision ref APP/P0240/W/17/3181269, Land off Mill Road, Cranfield, Bedfordshire.
16. Updated table summarising the parties positions on housing land supply.
17. Revised list of conditions.
18. Additional condition prepared by the Council regarding the submission of details as reserved matters stage.
19. Council's closing submissions.
20. Appellant's closing submissions.

DOCUMENTS SUBMITTED AFTER THE INQUIRY

21. Dated and signed section 106 agreement.
22. Appeal decision ref APP/P0240/W/17/3170248, Land east of High Street, Silsoe.

23. Appeal decision ref APP/P0240/W/17/3186914, Land situated between Crawley Road and Bourne End Road, Cranfield.
24. Council's comments on Silsoe and Crawley Road, Cranfield appeal decisions.
25. Appellant's comments on Silsoe and Crawley Road , Cranfield appeal decisions.

Richborough Estates

SCHEDULE OF CONDITIONS

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 7268-L-04 – Location Plan and Drawing No. 4746/39/01- Proposed Junction Layout.
- 5) The development hereby approved shall comprise up to a maximum of 100 dwelling units.
- 6) The reserved matters pursuant to condition 1 shall:
 - i) in relation to appearance, include details of all materials to be used in the external surfaces of the proposed dwellings;
 - ii) in relation to appearance and scale, include details of finished floor levels and site levels for each dwelling and hard surfaced areas relative to an existing fixed datum point;
 - iii) in relation to layout, shall include details of all internal roads, turning and manoeuvring space and if any are proposed details of bin and recycling storage and collection points;
 - iv) in relation to landscaping, include details of all soft and hard landscaping including details of hard surfacing materials as well as proposed means of enclosure within and around the site.

The development shall be carried out in accordance with the details as approved.
- 7) The submission of reserved matters and the implementation of the development hereby permitted shall be carried out in broad accordance with the parameters set out in the indicative Development Framework Plan Drawing No. 7268-L-02 rev B.
- 8) No development shall take place until an Ecological Enhancement Strategy (EES) has been submitted to and approved in writing by the local planning authority. The EES shall include the following:
 - a) the purpose and conservation objectives for the proposed works informed by a review of the ecological assessment;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working methods(s) to achieve stated objectives;
 - d) extent and location/area of proposed works on appropriately scaled plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;

- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works; and
- h) details of initial aftercare and long-term maintenance.

The EES shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 9) No development shall take place until details of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained in an operational state thereafter. No dwelling hereby permitted shall be occupied until its foul and surface water drainage has been implemented in accordance with the approved details.
- 10) No development shall take place until a scheme of highways works has been submitted to and approved in writing by the local planning authority. The scheme shall include details of pavement widening works along Astwick Road. The approved scheme shall then be implemented in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 11) No dwelling shall be occupied until visibility splays, as shown on Drawing No. 4746/39/01- Proposed Junction Layout, have been provided at the junction of the estate road with Astwick Road. The minimum dimensions to provide the required splay lines shall be 2.4metres measured along the centre line of the proposed estate road from its junction with the channel of the public highway and 215 metres measured from the centre line of the proposed estate road along the line of the channel of the public highway. The required vision splays shall be maintained free of any obstructions to visibility for the perpetuity of the development.
- 12) 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) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

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

- 13) Prior to the first occupation of any dwellings hereby permitted, a full travel plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented in accordance with the approved details.
- 14) Development shall not commence until a phase II investigation of potential contamination is carried out and its results submitted to and approved in writing by the local planning authority. If the Phase II investigation indicates that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the local planning authority. Remediation work shall then be carried out in accordance with the approved scheme. If remediation is required a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling hereby permitted.
- 15) No development shall take place until a written scheme of archaeological investigation / resource management; that includes post excavation analysis and publication has been submitted to and approved in writing by the local planning authority. The development hereby approved shall be implemented in full accordance with the approved scheme.
- 16) 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 dwellings, the fire hydrants serving that development shall be installed and retained thereafter as approved.
- 17) No development shall take place until a scheme of sound attenuation to protect dwellings against external noise from the Fen End Industrial Estate has been submitted to and approved in writing by the local planning authority. The scheme shall ensure the following:
 - i) that noise associated with Fen End Industrial Estate is mitigated to a rating level of at least 5dBA below the existing background noise level (LA90) within proposed outdoor living areas in accordance with BS4142:2014;
 - ii) that noise levels within living rooms and bedrooms during the daytime shall be mitigated to NR30 and that noise levels within bedrooms during the night time shall be mitigated to NR25 in accordance with BS8233:2014.No dwelling shall be occupied until it has been constructed in accordance with the approved details which shall thereafter be retained.