



---

## Appeal Decision

Inquiry Held on 5 – 8 June 2018 and 12 June 2018

Site visit made on 8 June 2018

**by Kenneth Stone BSc Hons DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 July 2018

---

**Appeal Ref: APP/P0240/W/17/3190779**

**Bayley Gate Farm, College Road, Cranfield MK43 0AW**

- 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 Limited and the Kinns Family against the decision of Central Bedfordshire Council.
  - The application Ref CB/17/02719/OUT, dated 31 May 2017, was refused by notice dated 31 August 2017.
  - The development proposed was described as 'the erection of up to 300 residential dwellings (including 35% affordable housing), including land for provision of a school and local service centre, structural planting and landscaping, allotments, public open space, sustainable drainage system (SuDS) and vehicular access point from Wharley End Road. All matters reserved except for means of access.'
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application seeks outline planning permission with all matters, except for access, reserved for future consideration. The application is supported by a location plan 7479-L-04 and an access plan – proposed access arrangement 4979-00-20 Rev A. These are the plans for which the appellant seeks planning permission.
3. The Council refused planning permission for eight reasons as set out in the Council's decision notice (CD5.2). Subsequently a revised application was made to the Council which provided additional information. Under these circumstances the Council resolved not to defend reasons for refusal 4, 5, 6 and 8 related to the access arrangements and archaeology. Reason for refusal 7 related to the lack of a planning obligation to secure necessary infrastructure including affordable housing and various other elements of infrastructure. By the close of the Inquiry the parties agreed that the provision of planning obligations, secured through two separate Unilateral Undertakings under section 106 of the Town and Country Planning Act 1990, addressed those matters raised by the Council in relation to the provision of financial contributions towards infrastructure and other matters. As such reason for refusal 7 was no longer contested by the Council.

4. At the start of the Inquiry the appellant requested that an amended description of development be used, removing the reference to land for the provision of a school. The amended description read 'Outline planning application for the erection of up to 300 residential dwellings (including 35% affordable housing), including land for the provision of a local service centre, structural planting and landscaping, allotments, public open space, sustainable drainage system (SuDS) and vehicular access point from Wharley End Road. All matters to be reserved except for main site access' (APP13). The amendment was as a result of the outcome of discussions between the relevant parties, including the education authority, regarding the appropriate education provision/contribution that would be required. The Council did not object to the amended description. Given the nature of the original description, which was only to allow for the provision of land for the school and did not seek permission for a school, as clarified by the appellant, I am satisfied that this would not result in any prejudice or necessity for re-consultation and does not substantially change the nature of the development.
5. An updated Development Framework drawing number 7479-L-02 rev G was also provided. This included an annotation where the land for the school had previously been, amended to 'retained agricultural land'. The Development Framework Plan was provided for illustrative purposes only to demonstrate one way in which the site could be developed and was not therefore a plan for which planning permission was being sought.
6. I was provided with a certified copy of an executed Unilateral Undertaking (first) at the end of the Inquiry. A further Unilateral Undertaking was discussed and agreed at the Inquiry to deal with obligations required in respect of Traffic Regulation Order procedures, the (second) Unilateral Undertaking. I received a certified copy of the executed (second) Unilateral Undertaking shortly after the close of the Inquiry, as was agreed would be the case. I deal with the issues around the planning obligations further below.
7. I have considered the appeal on the basis of the above matters including the amended description of development.

### **Main Issues**

8. In these circumstances and on the basis of the evidence I have read, heard and saw the main issues in this case, as I see them, are:
  - the effect of the proposed development on the character and appearance of the countryside and the landscape character of the area; and
  - Whether occupants of the proposed development would have reasonable access to shops and the necessary services and facilities to ensure the development would be sustainably located;

### **Reasons**

9. The statutory development plan for the area comprises the saved policies of the Mid Bedfordshire Local Plan, First Review (2005) (LP), the Central Bedfordshire Core Strategy and Development Management Policies (2009) (CSDMP) and the Central Bedfordshire (North) Site Allocations Development Plan Document (2011) (SADPD).

10. The draft Local Plan for Central Bedfordshire sets out the strategy for the area over the period 2015 – 2035. The plan was submitted to the Secretary of State for examination on the 30 April 2018. In the Statement of Common Ground the parties agree that limited weight can be afforded to the policies within the emerging local plan. Given the early stage of the draft plan and the fact it has not yet been subject to examination I agree and afford policies in the draft plan only limited weight in the determination of this appeal.

#### *Character and appearance*

11. Policy DM4 in the CSDMP addresses development within and beyond Settlement Envelopes. The policy identifies those forms of development that the Council would support that would be acceptable within Settlement Envelopes. Beyond Settlement Envelopes the policy identifies limited extensions to gardens as the only form of development that would be permitted under the terms of this policy. The site is significantly separated from the village of Cranfield and there is no dispute between the parties that the site is outside the Settlement Envelope associated with Cranfield. The proposal therefore conflicts with policy DM4.
12. Policies CS16 and DM14 in the CSDMP deal with landscape and woodland. These establish a hierarchy of importance in terms of landscape with the Chilterns Area of Outstanding Natural Beauty being at the highest level. The policies together seek to protect important landscape features or highly sensitive landscapes and indicate that the Landscape Character Assessment will be used to determine the sensitivity of the landscape and the likely impact of development. The site is located within the Forest of Marston Vale, referenced in the policy, and where the need to regenerate environmentally damaged landscape through woodland creation is promoted. To conclude on whether the proposal is in accordance with these policies, or not, a detailed assessment of the landscape and visual effects of the development is required.
13. The appeal site is bisected by Wharley End Road with the northern parcel being a large, relatively flat, arable field bounded by mature hedges on all boundaries, with the east and west boundaries also including sections of mature trees. It sits to the west of a residential and recreational zone of Cranfield University campus. To the south of Wharley End Road, the southern parcel is also predominantly arable fields however it also includes the farm buildings associated with Bayley Gate Farm. This section of the site has a gentle fall towards the south.
14. Part of the eastern boundary of the southern parcel of the site abuts existing industrial units and further to the south and south east are Cranfield Technology Park, Nissan centre and other industrial buildings. Further to the east is the main academic zone for the University and beyond which is Cranfield Airport. The village of Cranfield is located to the east of the airport.
15. The wider surrounding area is open countryside relatively flat with the site University, Airport and Cranfield village sitting on a plateau with the land beyond these generally falling away to the east, south and west.
16. The appeal site is located at the administrative boundary of Central Bedfordshire and Milton Keynes, with the boundary running along the western boundary of the northern parcel of the site. The Milton Keynes Boundary Walk Bridleway BW49 (MKBW) runs adjacent to the site along this section of the

western boundary and along the opposite side of the road to the western boundary of the southern parcel of the appeal site. There are a number of public rights of way to the north and west of the northern parcel of the appeal site and FP23 runs through the southern parcel of the site.

17. The appeal site is located within National Character Area (NCA) 88 – Bedfordshire and Cambridgeshire Claylands and has views towards Green Sands Ridge a landscape feature identified as the Bedfordshire Greensand Ridge NCA 90 which forms an isolate island in the centre of NCA 88. The key characteristics of the NCA include scattered woodlands, predominantly open arable landscape of planned fields, settlements clustered around major road and rail corridors with smaller towns, villages and linear settlements widely dispersed throughout giving a more urban feel. The NCA covers an extensive tract of landscape and provides a general context within which the proposal is set.
18. At a regional level the east of England Landscape Framework (2011) identifies the surrounding area as within the Woodland Plateau Farmlands Landscape Character Type. The Plateau Estate Farmlands LCT lies to the west and the Lowlands Settled Farmlands LCT is located immediately to the south. The Woodland Plateau Farmlands LCT is described as mostly settled, early enclosed landscape with frequent ancient woods associated with a rolling, in places undulating glacial plateau. The area is also described as deeply rural and tranquil often affording a sense of remoteness and continuity, although this is lost in some locations close to larger settlements and roads.
19. At the local level the Central Bedfordshire Landscape Character Assessment (2015) undertakes a character assessment at the County level. The site is located within the Clay Farmland Landscape Character Type and more particularly within the Cranfield to Stagsden Clay Farmland Landscape Character Area (SCFLCA). The key characteristics of the SCFLCA include a medium-large scale plateau landscape having an open and exposed character with long distant views, gently rolling landform levelling out to areas of flat plateaux on the highest ground; predominantly under arable cropping contained within large fields; a number of ancient semi-natural woodlands have been retained; a strong visible presence of Cranfield Technology Park and University with its associated urban infrastructure; audible and visual presence of Cranfield Airfield; settlement is concentrated at Cranfield; small scale rural lanes cross the landscape although extensive areas are only accessible via the public rights of way network; and recreational routes cross the area including the MKBW.
20. Guidelines for new development within the SCFLCA include references to potential for further woodland creation; new planting and hedgerow restoration; conserve the largely rural, undeveloped character of the area; retain views from elevated areas; avoid further linear expansion of Cranfield and ensure that cumulative effects of further development at Cranfield University and Technology Park and Airfield does not impact on the rural character and highly visible highest ground; integrate new large scale buildings into the landscape with appropriate planting; and avoid introducing large vertical scale features where these will detract from undeveloped skylines.
21. As the site is located adjacent to the Milton Keynes local authority boundary it is also relevant to consider the Milton Keynes Landscape Character Assessment

- (2016) which at a borough level for that area identifies the adjacent landscape as a Clay Plateau Farmland with Tributaries Landscape Character Type. The key characteristics of which include an elevated clay plateau incised by small tributaries with large fields predominantly arable and containing small pockets of woodlands. It notes the area is sparsely settled with small villages and has long distance and panoramic views across open areas and is generally a tranquil agricultural landscape.
22. The site is formed of a number of large arable fields and contains associated farm buildings. Of itself it has a rural countryside appearance. The site is relatively flat, gently sloping downwards towards the south, is bounded by mature hedges and trees. By itself and in association with the wider areas to the north, west and south it is part of a rural landscape that is very much representative of the landscape character types and areas as described above and contains many of the associated features.
23. To the east the site sits adjacent to the more urban forms of the University, Technology Park and industrial buildings. To the east of the northern parcel the built form includes buildings that are in a reasonably open layout with mature tree planting and generally good separation from the boundary, with the exception of the area closer to Wharley End Road. The more northerly section of the University residential zone is reasonably effectively screened from the site with only glimpsed views of the low scale residential buildings. This changes towards the southern section of this part of the University where more recent larger flat blocks are more prominently located, but they are also more readily associated with development along Wharley End Road and elements of the University estate there.
24. In general therefore the existing built development is not in my view characterised as a strong visible and urbanising presence. There is a recognisable urban form but this is mitigated by mature landscaping. To the east of the southern parcel this is more exposed and the limited landscaping is less effective. The whole site is bounded by public rights of way and walking along the MKBW and those public rights of way to the north the site contributes to the rural feel and general appreciation of open rural countryside.
25. It was put to me that concerns regarding the use of the term 'transience' in the overall assessment was semantics, I do not agree. Both parties landscape witnesses referenced Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3). The use of the term transient has a reasonably clear and purposeful application and is used to differentiate between the timing or way in which a view is experienced 'stationary or transient or one of a sequence of views' and this is how I have considered it in the terms of this appeal.
26. Construction activity during development may include a point when buildings are erected on site but when there was still a significant on-site presence of site huts, construction vehicles, movement, cranes, large pieces of plant and in this regard construction effects may well give rise to greater effects than the final development. This would obviously then need to be tempered by the temporary duration of such effects. I have considered these matters in my assessment of the overall effects.
27. The site does not form a valued landscape for the purposes of paragraph 109 of the National Planning Policy Framework (the Framework), a position

accepted by both parties. That however does not mean that it has no value and although it may not be rare or have significant conservation interest or have any known associations it is very representative of the wider landscape, has a pleasant and attractive scenic quality and is in good condition. Its arable nature, strong boundary hedge and tree treatment ensure that it, along with the surrounding fields, narrow country lanes, bridleway and public rights of way create a strong rural character. .

28. The introduction of a substantial urban development comprising 300 dwellings, on the northern parcel of the appeal site, and land for a local service centre and allotments on the southern parcel of the appeal site would result in significant change to the site. What is presently a pleasant attractive open rural aspect would be replaced by a heavily developed and urbanised form that significantly encroaches into the open countryside. The judgement of the extent to which this would represent a significant intrusion is in part related to the perception of the existing urban influence of Cranfield University and the Technology Park. These are to my mind not dominating or disruptive elements in the landscape or highly visible such that the development would simply be an extension of the built form and the only change would be to bring development to a new boundary. Rather for the most part the eastern edge of the existing development, particularly along the boundary with the northern parcel of land, ensures the existing built form is relatively discreetly located and is not generally intrusive. To the southern section of this area and to the east of the southern parcel of the site the built development is more exposed and more readily visible, however, this is seen in the context of the rural hinterland which itself aids in reducing and separating the urbanising effects.
29. Whilst I recognise that the proposals before me are in outline and that the illustrative Framework identifies proposed structural planting, the limited depth of these features, providing narrow strips of landscaping, would, in my view, do little to ameliorate and integrate the significant residential neighbourhood that would be created into the wider landscape.
30. The overall magnitude of change in the context of the proposed development would be substantial in a sensitive and attractive location and the harm to the landscape would be substantial. My conclusions are reached on the basis that I am of the view that the appellant underplayed the value of the site and exaggerated the urban influence of the University and Technology Park.
31. Turning to the visual effects the parties agree that the visual envelope from within which the development would be viewed is relatively constrained. Whilst there are not significant long distance views into which the development would intrude or from where the development would be viewed there are still significant differences between the parties regarding the more localised effects.
32. The site is bisected by Wharley End Road with the northern parcel of land proposed to be developed for residential and the southern parcel of the site identified for land for a local centre, allotments retained agricultural land and structural landscaping. Users of Wharley End Road will have clear visibility of both sections of the site. Along the road a number of new accesses would be created, to the north would be a substantial area of residential development and a significant portion of the southern parcel fronting the road would be given over as land for the local centre. Although it is the intention to retain much of the boundary treatment this will still be interrupted by the proposed

access points. The boundary treatment on the northern side of the road is a mature hedge which does not afford screening at a high level. Overall users of the road would be likely to have their surroundings significantly changed. There would no longer be the rural landscape to the north and west with farm buildings and fields to the south. This would be replaced by a highly urban large residential estate screening views of the wider countryside beyond and a more commercial character to the south. The users of the road on foot would be fully aware of this significant change in character and those in vehicles would be travelling at low speeds and also be readily aware of the change. Whilst this is on the approach to and exit from the University and associated built development there is presently a clear demarcation and this rural section of Wharley End Road would be subsumed within built development. Overall this would result in substantial harm to the visual amenities presently experienced by those receptors.

33. Along the eastern boundary of the northern parcel of the site the boundary is formed by the University residential zone. Close to Wharley End Road the blocks are close to the boundary, less well screened and are readily visible in the context of the site, including views from it and through it. Further north along this boundary, along West Road, the buildings are significantly more domestic in scale, set off the boundary and set within a landscape of mown grass and trees. The boundary is reinforced by mature Horse Chestnut which provide a significant degree of screening. There remains however glimpsed views of the open countryside beyond and for the residents of this accommodation it would be readily apparent that the land beyond the boundary was open countryside. The change would be substantial, noticeable and adverse.
34. The northern boundary of the northern parcel of the development has its boundary with an arable field and is predominantly formed by a mature hedge. The Public right of way network in the area includes a path to the north which runs roughly parallel with the boundary. Whilst the hedge provides some degree of visual barrier, which given the flat topography would restrict views at lower levels, this would not protect views at higher levels. The proposals include structural planting at the north east corner of the site and this would to some extent reduce views into the site. However, there is only a narrow band of structural planting for the north west corner of the site and development in this section would remain visible and prominent albeit that the views maybe more filtered as landscaping matures. Overall the views of walkers along this section of the public right of way would be harmed and their appreciation and awareness of built development would be significantly increased and there sense of being in open countryside substantially reduced. This would result in substantial harm to their enjoyment of the public right of way.
35. The western boundary of the northern parcel of the appeal site is adjacent to the MKBW; the boundary is formed by a mature hedge with significant sections of trees within the hedge line on both sides of the bridleway. This creates an enclosed walk way for much of the 700m length of the bridle way on the boundary with the appeal site. However there are a number of gaps in the tree screen and the hedge, whilst relatively dense, is not completely opaque. There remain glimpsed views and a general awareness that the adjoining land is agricultural open fields and that any built development is some substantial distance away. It has the feel of a bridleway through a landscape with a strong rural nature and character. Again the development Framework Plan suggests

that structural planting would be used to reinforce this boundary and the screening effect. The strip identified on the plan is in the region of 15m in depth. However, to provide structural planting that was in-keeping with the character of the area would not remove views through to the residential development. Walkers along the bridleway would, in my view, be aware that there was a large residential estate in close proximity to the bridleway. The glimpsed views of the proposed housing would not be totally removed and activity from residential occupation and car movements would draw further attention to the development of the area. The users of the bridleway would have high sensitivity and the effect would be substantial and adverse.

36. In terms of the western boundary along the road on the MKBW opposite the southern section of the site again views across the site would be available and the rural arable fields and farm buildings would be replaced by a local centre, allotments, structural landscaping and a small arable field. There would be minor visual harm resultant from the additional development of land at the service centre when that came. There is an existing public right of way, FP23, that runs through this parcel of land and users of which would have their experience altered. This would be adverse resulting from a change from predominantly rural to a more urban form.
37. The policy context refers to the Forest of Marston Vale but this is in the context of degraded landscapes which this is not and seeks an overall 30% increase in tree cover. The percentage relates to the whole of the area and is not translated to individual sites and is therefore not a point on which this scheme should fail.
38. On the basis of the above aggregating the various harms that would arise and taking an overview of the effect of the development I conclude that the proposal would result in substantial material harm to the character and appearance of the countryside and the landscape character of the area. This would be as a result of the substantial adverse landscape and visual effects I have identified above. The proposal would therefore conflict with CSDMP policies CS16 and DM14 which seek to protect the character and appearance of the landscape. The proposal also conflicts with policy DM4. As the scheme is in outline I am satisfied that policy CS14 related to the quality of design would be more appropriately engaged in respect of the reserved matters and find no conflict with that policy at this stage.

#### *Accessibility and infrastructure*

39. Policy CS3 states the Council will ensure that appropriate infrastructure is provided for existing and growing communities through a series of measures including safeguarding existing facilities, supporting the upgrading of facilities, identifying appropriate sites for new facilities, directing development to locations where developer contributions can facilitate a solution or where additional development could achieve a critical mass. Policy CS4, amongst other matters, notes that the Council will focus new development in locations, which due to their convenient access to local facilities and public transport, promote sustainable travel patterns. This is within the context of the overall strategy set out in CS1 which directs development to particular locations within a hierarchy and Policy CS5 which directs housing towards Groups of settlements and specific settlements.



40. The appeal site is not located within a settlement, it is not located within the Settlement Envelope of Cranfield, it is therefore in conflict with DM4. The site is not an allocated site in the SADPD. The Cranfield Airfield, University Campus and Technology Park, Nissan Centre and adjoining development are all located outside Cranfield and sit to the east and south of the appeal site and between it and Cranfield. Cranfield is some 4 km distant from the appeal site and is beyond what is an acceptable walking distance this is accepted by both parties. The services and facilities in Cranfield are therefore not readily accessible on foot. The nature of the journey by cycle is however within normal cycle distance and part of the way is provided with a cycle route. The terrain is relatively flat and cycling is an option to access certain facilities and services.
41. There are a range of minor services and facilities within the University campus including a convenience store, post office, bank, petrol filling station, barber shop and café. Whilst these have been provided for students of the University there is no bar to members of the public from using them. They are located in the region of 800m from the accesses to the appeal site; although further if the distances that residents would have to walk are considered, and considerably greater for those residents at the north of the site. These facilities are at the upper limit of the normally accepted 800m walking distance. However, it is also about the propensity of people to walk rather than jump into the car and at significantly greater distances there is a greater likelihood that people would use a private vehicle to access the facilities given the extended distances and nature and quality of the facilities. In my view these facilities are at the upper end of that limit, have limited qualitative value and it is likely that there would be some discouragement to walk to them.
42. The appellant undertook an assessment of the potential scoring of the site against the settlement score card used to classify settlements by the Council. However, the site and the University is not a settlement so I would question the applicability of such an approach. Even in this context it was put to me that the University library could be marked as scoring for the site as it was accessible to members of the public. This is not a public library, it is an academic library and in any case does not allow non University associated people to borrow books albeit there is no bar to them accessing the library building. The other retail facilities and café where also scored full marks as was the pre-school and church. These are predominantly facilities for the University and to serve the university community they do not serve the wider community and it is questionable whether such an approach is reasonable in the context of the purpose of identifying scores for settlements.
43. Significant concern was expressed regarding the doctors surgery and I was advised by a number of the ward Councillors that this was one of the top concerns for the local community. That the existing facilities were oversubscribed and that there was a significant issue was not contested. I understand that these matters have been raised in previous appeals and that such matters have been addressed through planning obligations or/and through the imposition of a planning condition. I understand the present position is such that the developer is prepared to make a financial contribution to address the effect of the development. The latest advice is that the Clinical Commissioning Group (CCG) are reviewing the options for the provision of additional health facilities in the area but no firm conclusions have been reached. I note that the CCG have not objected to the application, that the existing doctor's surgery list is not closed and that there are other surgeries

that would take on residents in this location, albeit that they are further afield in Milton Keynes which would not be accessible on foot. Taking all of this together I am satisfied that should the development be found acceptable the securing of a suitable financial contribution and the use of an appropriately worded condition to ensure the surgery came forward before the development was occupied could address the lack of provision.

44. The site originally included land for a school. This was withdrawn at the start of the inquiry and in place a number of educational contributions are secured through the first Unilateral Undertaking. The proposed contributions would be in line with the Council's requirements for such and are justified given the additional burden that would be placed on the educational facilities. However, the closest school to benefit would be in Cranfield and this would only take a small number of children. It is highly likely this would be accessed by the private car. The other children would be required to attend schools further afield and the appellant relies on the Central Bedfordshire Parents Guide to Home school Transport which sets out the Council's obligations to transport children to school where they are located beyond a certain distance. It is not in dispute that the Council would be under an obligation to transport the children to school, the question is whether the site is appropriately located to ensure that sustainable transport options are readily accessible. The financial contributions would be required to address the additional demands on services that arise but this does not address the access suitability of the development site. The lack of reasonable access to school facilities in terms of sustainability credentials does not support the proposal.
45. There is within the University campus a bus stop/ interchange which provides good access to higher order centres with a good range of services and facilities. The bus stop is in the region of 800m from the site entrance. The bus journey times to the higher order centres are not unreasonable for a rural location and they run from relatively early in the morning until relatively late in the evening. It would therefore provide a practical option for access to work and leisure pursuits in those higher order centres. The location is some distance from the site and indeed from the northern section of the site and the greater proportion of future residents.
46. Whilst a good service with good destinations may be more likely to be more attractive and encourage people to walk further to access such bus stops I am also conscious of the advice in the extracts of documents provided by the Council. In particular Manual for Streets 4.4.1 which indicates walkable neighbourhoods normally have a range of facilities within 10 minutes (up to about 800m); from the CIHT document Planning for Walking at 6.4 which suggests that for bus stops in residential areas 400 metres has been traditionally regarded as a cut off; and The Institution of Highways and Transportation 'Providing for Journeys on Foot' which indicates that 800m is acceptable elsewhere and 1000m is acceptable for commuting and school trips. Taking these together I am concerned that the distance to the bus stops is such that it would be likely to not provide the draw that would result in its greatest use. This would not, in the words of the Framework, be taking up the opportunities for sustainable transport modes or ensuring that the development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

47. I accept that the site is located next to the University and the Technology Park and other industrial sites and these could potential provide opportunities for employment that would be accessible by a means of transport other than the private car. This can be viewed as a positive contribution to the sustainability of the location of the site, albeit limited and would not outweigh the substantial harm I have identified arising from the lack of access to other services and facilities.
48. On the basis of the above I conclude that the proposed development would not have reasonable access to shops and the necessary services and facilities to ensure the development would be sustainably located. The future occupants of the site would not have reasonable access to school, shops and other services. The range and nature of shops and services closest to the site would be limited in terms of their adequacy and that they are primarily aimed at servicing the University community and not future residents. The Bus stops that provide access to higher order centres are not located sufficiently close to ensure their use would be optimised. This would not be compensated for by the limited opportunities for access to employment by proximity to the University, Technology Park and surrounding businesses. There would be substantial material harm arising from the lack of adequate access to such facilities as this would encourage the use of the private car and would represent an unsustainable location. Consequently it would conflict with policies CS3 and CS4 of the CSDMP and would not be in accordance with the development strategy or housing delivery identified in policies CS1 and CS5 of the CSDMP.

### **Planning Obligations**

49. The appellant has provided two Unilateral Undertakings which contain planning obligations for the purposes of Section 106 of the Town and Country Planning Act 1990. Both of these are now executed deeds.
50. The first Unilateral Undertaking contains the majority of the obligations. In terms of affordable housing the obligation secures the provision of 35% of the units as affordable housing, 73% as affordable rented and 27% as intermediate housing. This is in line with policy CS7 of the CSDMP. The level of provision is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. The Council suggest that because it is policy compliant that this would suggest the weight to be attached should not be significant but limited. However, I note in the Statement of Common Ground that the Council agree that there is a significant need for new affordable housing, I also note that there is a substantive proportion of the units secured as affordable rent. Given that there are many circumstances where the level or nature of affordable housing is reduced by viability issues the level and nature of provision in this scheme, in my view, commands more than limited weight, I would suggest moderate weight is appropriate . I have also had regard to the latest level of affordable provision suggesting that there has been a recent surplus in reaching this conclusion..
51. There are a number of financial educational contributions secured dealing with early years, lower, middle and upper schools. These are formula based and related to the likely child yield from the development and therefore consequent pressure on additional school places. The Council have identified the locations where additional contributions could be spent to increase capacity to address the additional pressure. The Council have confirmed that none of the

- contributions would combine with more than 5 other contributions at any of the locations. The contributions are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
52. A healthcare contribution is provided by formula related to the final composition of the development. The contribution is identified for providing accommodation for medical services for residents of the development, including, but without limitation the provision of a doctor's surgery and/or medical centre. Given the basic formula I am satisfied that the contribution is fairly and reasonably related in scale and kind to the development and the evidence demonstrates that it is necessary. I am aware that there has been other contributions sought and secured by other developments in the locality however the Council have confirmed that the project has not been subject to more than 5 contributions.
53. The Obligations secure the transfer of open space, including a play area, allotments and landscaping. The obligations also include a management specification. A financial contribution towards a 3G multi sports pitch in Cranfield is also provided for. The facilities and contributions would be provided for the future residents of the development. The Contribution is a formula using the Sport England Playing Pitch Calculator and the play area would be within the development for the use of residents. Management details are set out in further Obligations. I am satisfied that the Obligations are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. The Council have also confirmed that the pitch contribution is the third such contribution secured so within the 5 limit threshold.
54. A Sustainable urban Drainage System is to be provided for and obligations are included in respect of its management and maintenance. These are directly related to the development and appropriate in scale and kind.
55. The obligations include a waste container contribution related to the number of dwellings and to contribute to the additional capital cost for the provision of additional receptacles for the new properties. This would be the sole source of funding for the receptacles which would be given to each dwelling and are therefore directly related to the development in scale and kind.
56. The appellant has made provision for a PROW contribution. The Council suggest that this does not meet the test of necessity that there is no scheme identified and that the amount would provide limited funds for any significant benefit. The appellant contends that improvements to the public rights of way could include improved signage for way finding, better publicity and minor improvements to facilitate the better use of the public rights of way in the vicinity of the site. Given the additional number of residents and potential increased usage of the public rights of way for leisure purposes this does seem to me to be related to the development and the scale and kind is reasonable. Given the consequences of the development on the rights of way described above this would provide a degree of mitigation and is therefore appropriate.
57. The second Unilateral Undertaking has come about due to concerns regarding the potential imposition of a condition and the relationship with Traffic Regulation Order procedures. The parties have instead turned to address the matter through the provision of a Unilateral Undertaking to pay a contribution towards the making of the relevant order to reduce speed along Whaley End

Road to 40 MPH in the vicinity of the site. The Undertaking commits not to permit or allow the commencement of development until the TRO contribution has been paid.

58. Both Undertakings also include Obligations to notify the Council regarding various stages of the development and the contributions and provision of facilities relate to the progress of development. These are necessary to ensure proper programming of the development and the relationship with the additional or improved facilities that would be required.
59. Overall the Obligations of the Undertakings are related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development where appropriate. The planning obligations therefore comply with the tests set out in the Framework, the advice in the National Planning Practice Guidance and with Regulation 122 of the CIL Regulations 2010 (CIL). There is no conflict with CIL Regulation 123(3).

### **Benefits of the scheme**

60. The appeal scheme provides for up to 300 new dwellings, 35 % of which would be affordable units. The Framework advises Council's to significantly boost the supply of housing, and the Council can demonstrate a five year housing land supply. The provision of additional market housing in such circumstances should still be afforded moderate positive weight in the determination of this appeal. The Council's latest requirement in the draft Local Plan including the unmet need for Luton's need is material but is untested and in a draft plan, which only is afforded limited weight, I do not therefore increase the weight given to the provision of market housing above moderate. The Planning Obligations secure affordable housing and I give that moderate positive weight in the determination of this appeal, for the reasons given above.
61. The appellant put forward unchallenged economic benefits associated with the scheme which would include a construction spend of £26.6m supporting 228 FTE jobs over a 6 year build period; GVA over the build period of £9.1m; and spending by some 369 economically active residents who could be expected to live on the appeal site of £8.4m per annum. I do not agree that limited weight should be afforded to these benefits, as suggested by the Council, as they would come forward with any development of this scale. They are benefits directly attributable to the scheme before me and I attach moderate weight to these given the scale and nature. I would expect that some of the economic benefit would be experienced locally through local spend but not all.
62. The proposal would introduce a net benefit bringing biodiversity benefits and green infrastructure. I attach limited positive weight to this as the benefit is only minor in nature. Also the scheme makes provision for allotments of which there is an identified deficiency in Cranfield. This is only a small contribution and therefore I attach only limited positive weight to that benefit.

### **Other matters**

63. In the Statement of Common Ground the parties agree that for the purposes of this appeal the Council can demonstrate a 5 year supply of housing land. The

parties also agree that there is a pressing need for the provision of housing in Central Bedfordshire and that there is a significant need for new affordable housing (paragraph 7.1.5 of the Statement of Common Ground).

64. The unmet need arising in Luton, which is not accounted for in the Objectively Assessed Need for Central Bedfordshire for the purposes of the five year housing land supply calculation in this appeal, is a material consideration. It is taken forward in the emerging development plan in its requirement figure, given that the parties agree that the emerging plan carries limited weight due to its progress towards adoption, the requirement in that plan is as yet untested, which has therefore limited weight.

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

65. Section 38(6) of the Planning and Compensation Act 2004 requires that appeals be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. I have found that the proposal conflicts with policy DM4 as the site is outwith the Settlement Envelope around Cranfield and is a residential development comprising more than just gardens. Moreover I have concluded that the proposal would result in significant material harm to the character and appearance of the countryside and the landscape character of the area such that it would conflict with policies CS16 and DM14. I have also concluded that the proposal would conflict with policy CS1 and CS3 as it is not located within an identified settlement and not sustainably located providing access to the day to day needs of future residents. On this basis the proposal would not be in accordance with the development plan.
66. In these circumstances the proposal should be refused unless material considerations indicate a determination otherwise than in accordance with the development plan is appropriate. The Framework is a significant material consideration. Paragraph 14 of the Framework identifies a presumption in favour of sustainable development. For decision taking this means approving development that accords with the development plan without delay. I have already concluded that the development does not accord with the development plan and therefore this route to a presumption in favour of sustainable development is closed.
67. The second bullet point in decision taking in paragraph 14 indicates that where the development plan is absent, silent or relevant policies are out of date permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted – the ‘tilted balance’ as it has been referred to.
68. There is no case made by the parties that there are specific policies in the Framework that indicate development should be restricted such that would disengage the ‘tilted balance’. And I agree that there are no such policies at play in this case.
69. The development plan includes policies that address housing, landscape and accessibility there are a number of policies against which the development can be judged and a conclusion that the development plan was absent or silent on such matters is not sustainable.

70. There are a number of policies where there is significant disagreement between the parties as to the degree of consistency with the Framework and whether those policies are out of date and hence could trigger the tilted balance. In this regard Policies DM4 and CS5 are of greatest relevance, although concerns were also expressed regarding Policies CS1 and CS6. Dealing with these in turn.
71. The preceding paragraphs to policy DM4, at 11.1 of the CSDMP, make it clear that part of the purpose and intent of the policy is to protect the countryside from inappropriate development outside settlements. The reference to PPS7 suggests that this is in part to protect the countryside for its own sake. The Framework has introduced a more nuanced approach to the protection of the countryside; including advising that the intrinsic character and beauty of the countryside should be recognised (paragraph 17), introducing protection and enhancement of valued landscapes (paragraph 109) and advising that protection should be commensurate with its status (paragraph 113). Taken together this suggests that there should be a judgement about the importance of the area of countryside and the weight that should be afforded to it in the planning balance. This is not evident in policy DM4 which is therefore not consistent with the Framework. This is a point on which the parties agree and on which the various appeal decisions to which I was directed all appear to accept to one degree or another.
72. The point of divergence between the parties and the appeal decisions revolves around the degree of inconsistency, whether that leads to a finding of the policy being out of date and the degree of weight that should be afforded to the policy. Much of the discussion at the Inquiry was inevitably focussed on previous appeal decisions, 9 in total. The Council also submitted a further appeal decision<sup>1</sup> after the close of the Inquiry and this simply added to the raft of decisions in which these issues have been grappled with. These decision read together are, as was noted, irreconcilable, with various Inspectors arriving at different conclusions on the same matters. In this regard I would reflect the points made by two of the later Inspectors, Inspector Gregory<sup>2</sup> and Inspector Singleton<sup>3</sup> that different conclusions reached by different Inspectors may reflect how the cases were put to them. I must base my conclusions on the cases and evidence before me.
73. Policy DM4 in my view seeks to, amongst other things, protect the countryside for its own sake. In this regard it is inconsistent with the more nuanced advice in the Framework. The Policy uses Settlement Envelopes to differentiate between what is within a settlement and outside the settlement. In this regard the glossary of the CSDMP states they identify the area within which development proposals would be acceptable, subject to complying with other policies contained in the Development Plan. They seek to differentiate between the settlement and the surrounding countryside. Annex G, in the CSDMP provides detailed advice on land included within the Settlement Envelopes. This notes that Settlement Envelopes are defined to enable clear, unambiguous and consistent application of policies in the control of development. What the Settlement Envelopes have not been used for is to delineate land which would be required to meet the housing supply need for the plan in various settlements, to identify an extended Settlement Envelope to take account of

---

<sup>1</sup> APP/P0240/W/16/3164961

<sup>2</sup> APP/P0240/W/17/3186914

<sup>3</sup> APP/P0240/W/17/3190584

future growth needs. The place for that in the plan is through policies for the supply of housing, the distribution of housing and the Allocations Plan that was to be produced. There is no indication in policy DM4, the glossary or Annex G to the CSDMP that suggests that this is a consideration in the definition of the Settlement Envelopes.

74. Given these conclusions I am satisfied that the inconsistency with the Framework is related to countryside protection and is not such that would make DM4 out of date. There is inconsistency and this reduces the weight that I ascribe to any conflict with it. This weight I would suggest is reasonably concluded to be moderate given that Cowrey<sup>4</sup> advises that ordinary countryside may not justify the same level of protection but the NPPF properly read cannot be interpreted as removing it altogether. There is therefore a retained degree of protection for ordinary countryside by virtue of recognising its intrinsic character and beauty and therefore policy DM4 is not wholly at odds with the intention of the Framework. I recognise that these conclusions are in accordance with those expressed by some Inspectors but not all, who reached a different conclusion. However, I have reached my conclusions on the basis of the evidence before me and I have explained my reasoning.
75. Turning to policy CS5. The Council have sought to argue that a change in the requirement figure should not automatically render the policy out of date. This is a position that Inspector Singleton agreed with. However, given the evidence and submission put before me I am of the view that the policy as properly read sets not only the housing delivery for the plan period but distributes that level of housing across the settlement hierarchy with the distribution being set out in a table in the policy. All parties accept that the housing requirement has been overtaken by the latest Objectively Assessed Need figure for the Housing Market Area as contained in the draft plan submitted for examination. The housing figures in the CSDMP are based on a now rescinded Regional Strategy, do not address the Housing Market Area and are not based on an Objectively Assessed Need as is required by the Framework. On this basis the policy is not consistent with the Framework. It cannot be assumed that with an uplift in the delivery target the balance of the distribution in CS5 would remain the same and therefore not only are the base figures no longer relevant but the distribution cannot be relied on. On this basis I conclude that Policy CS5 is out of date. Given the comments above I also conclude that any conflict with it should only attract limited weight in the planning balance.
76. Policies CS1 and CS6 can be dealt with much more swiftly. Policy CS1 is an overarching development strategy that translates the overall approach to development in the plan area into a specific strategy for specific locations. There is nothing within the policy that is fundamentally in conflict with the Framework and its approach to the location of sustainable development at the most sustainable locations. Policy CS6 is a statement that the Council will maintain a 5 year supply of housing and how that will be monitored. The reference to the then extant government guidance does not undermine the intent of the policy and the supplanting of the Framework for PPS3 would not alter the material intent of the policy. In this regard I do not see that the policy is inconsistent with the Framework. Neither of the policies are out of date and both attract full weight of the development plan.

---

<sup>4</sup>Cawrey vs Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2016] EWHC 1198 (Admin)



77. On this basis I have concluded that policy CS5 is out of date. The scheme is a residential development and this policy seeks to address the distribution of housing it is therefore a relevant policy. Taking account of paragraph 49 and 14 of the Framework the tilted balance is therefore engaged.
78. The adverse effects of granting permission would be the substantial harm to the landscape character of the area and visual amenity and appearance of the locality. This substantial adverse harm extends to the wider countryside and the landscape character of the surroundings. This would conflict with policy DM4 to which I ascribe moderate weight and policies CS16 and DM14 to which I give full weight, as they are consistent with the Framework. Further substantial adverse effects would result from the fact the development is not located within an identified settlement, is not sustainably located and does not provide access to facilities meeting the day to day needs of future residents. This would conflict with policy CS1, CS3 and CS4, all of which I ascribe full weight to as they reflect the general intent of the Framework. It would conflict with policy CS5 also although I have concluded policy CS5 would be out of date and any conflict would be of limited weight. For completeness it would also again be in conflict with DM4 in relation to this matter (which only attracts moderate weight).
79. The benefits of the proposal are identified above and include the provision of additional market housing, and the provision of affordable housing to which I afford moderate weight. The scheme would bring forward economic benefits to which I also attribute moderate weight, given the scale and amounts. Finally, the scheme would also bring forward biodiversity enhancements and new allotments to which I attribute limited weight given the limited nature of the benefits.
80. Applying the tilted balance, I am satisfied that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development.
81. The proposal conflicts with a number of policies in the development plan and does not accord with the development plan and there are no material considerations that indicate a decision otherwise than in accordance with the development plan would be appropriate.
82. For the reasons given above I conclude that the appeal should be dismissed.

*Kenneth Stone*

INSPECTOR



- CBC5 Letter dated 23 May 2018 from Pins in response to complaint.
- CBC6 Plan detailing agreed proposed route for accompanied site visit
- CBC7 Appeal decision APP/P0240/W/17/3184967
- CBC8 Driving route and other points to visit as unaccompanied site visit by Inspector
- CBC9 Closing submissions on behalf of the Council
- CBC10
  - a) Court of Appeal decision Gladman Developments Limited vs the Secretary of State for Communities and Local Government and Daventry District Council [2016] EWCA Civ 1146
  - b) High Court decision Cawrey Limited vs Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2016] EWHC 1198 (Admin)

**DOCUMENTS SUBMITTED BY THE APPELLANT (APP) - GLADMAN DEVELOPMENTS LTD AND THE KINNS FAMILY**

- APP1 List of appearances on behalf of the appellant
- APP2 Natural England Landscape Character Typology for the East of England as Ms Bolger had only produced extract.
- APP3 Replacement Figure 2 from Mr Holliday's proof and appendices. Correcting 'Wooded Plateau Farmlands' name.
- APP4 Central Bedfordshire 'Parents Guide to Home to School Transport'.
- APP5 CBC Officer Report in respect of application CB/17/05862/OUT at Land North of Cranfield Airport.
- APP6 Appeal Decision APP/P0240/W/17/3190584
- APP7 Appeal Decision APP/P0240/W/17/3176387
- APP8 Opening statement on behalf of the appellants.
- APP9 Updated Framework drawing no. 7479-L-02 Rev G
- APP10 Finalised draft of (First) Unilateral Undertaking, undated.
- APP11 Additional table as referenced in para 9.7.1 of Mr Still's Proof
- APP12 Scorecard for Cranfield University applying settlement scoring matrix in CD12-19
- APP13 Amended description of development
- APP14 High Court Queen's Bench Division Mr Justice Holgate's notification of decision in an application for permission to apply for Planning Statutory Review in Central Bedfordshire Council vs Secretary of State for Housing Communities and Local Government and Gladman Developments Limited CO/1773/2018 and associated papers
- APP15 Appellants' comments on the Council's suggested conditions.
- APP16 Finalised draft of (Second) Unilateral Undertaking addressing TRO obligations
- APP17 Closing submissions on behalf of the appellant
- APP18 Certified copy of the finalised signed and dated (First) Unilateral Undertaking
- APP19 Certified copy of the finalised signed and dated (Second) Unilateral Undertaking addressing TRO Obligations - Submitted after close of Inquiry as agreed by parties.

END