



Appeal Decision

Hearing Held on 24 July 2018

Site Visit made on 24 July 2018

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2018

Appeal Ref: APP/P0240/W/16/3166033 Land off Taylor's Road, Stotfold SG5 4AQ

- 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/16/03344/OUT, dated 27 July 2016, was refused by notice dated 27 October 2016.
 - The development proposed is an outline planning permission for up to 78 residential dwellings (35% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Taylor's Road and associated ancillary works. All matters to be reserved except for main site access from Taylor's Road.
 - This decision supersedes that issued on 21 August 2017. That decision on the appeal was quashed by order of the High Court
-

Decision

1. The appeal is allowed and outline planning permission is granted for up to 78 residential dwellings (35% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Taylor's Road and associated ancillary works. All matters to be reserved except for main site access from Taylor's Road at Land off Taylor's Road, Stotfold SG5 4AQ in accordance with the terms of the application, Ref CB/16/03344/OUT, dated 27 July 2016 subject to the conditions set out in the schedule to this decision notice.

Procedural matters

2. The application was made in outline form with all matters reserved for later approval except for access. I have considered the appeal on that basis. A Development Framework Plan (DFP) has been submitted for illustrative purposes only and I have considered it on that basis.
3. On 24 July 2018, during the appeal process, the Government published its revised National Planning Policy Framework (revised Framework). I have given the parties an opportunity to comment on the revisions where they may be relevant to this case and have taken their responses into account in reaching my decision.

4. With agreement, subsequent to the hearing, the appellant submitted both a signed Unilateral Undertaking (UU) under S106 of the Town and Country Planning Act 1990, as amended and a Deed of Variation to that UU to take account of the changes to the Framework in respect of the definition of affordable housing units, affordable rented housing and intermediate housing.
5. The UU contains obligations in respect of the provision of open space and a Sustainable Drainage Scheme (SuDs) and the provision of 35% of the dwellings as affordable houses. In addition, financial contributions towards the cost of sports pitches, public rights of way (PROW), education and wheeled bins have been included on a formulaic basis, together with a contribution of £25,309, towards a multi-use games area (MUGA). The UU is a material consideration and is considered in more detail later in this decision.
6. A Statement of Common Ground (SOCG) dated 19 July 2018 was submitted prior to the hearing. Within that document the parties agree that, for the purposes of this appeal, the Council is able to demonstrate a five year housing land supply and therefore paragraph 11(d) of the revised Framework is not engaged on that basis. However, due to the use of the standardised methodology for the calculation of a five year housing land supply and the definition of deliverability for the claimed supply in the revised Framework, the appellant is subsequently of the opinion that the Council is unable to demonstrate a five year housing land supply and therefore paragraph 11(d) would be engaged. I return to this matter below.
7. At the hearing I was presented with a note regarding the relevance of the quashed decision by the appellant. The note includes reference to case law¹ which supports the principle that the second Inspector should have regard to the reasons and views of the first Inspector in respect of matters that were not tainted or affected by the legal grounds upon which the quashing was based. Although not bound by the first decision if different conclusions are made then the Inspector should explain why. Having read the evidence submitted I would agree that the quashed decision is a relevant material consideration in so far as it relates to the matters that were not the subject of the legal challenge. In this instance this relates to matters regarding the effect of the proposal on the character and appearance of the area; the setting of the Astwick Conservation Area and the best and most versatile agricultural land.
8. For ease I list here the appeal decisions to which I have been referred that have recently been issued with regards to applications for housing on sites in the surrounding area. Clophill (APP/P0240/W/16/3152707), Potton (APP/P0240/W/17/3176444), Meppershall (APP/P0240/W/17/3175605), Cranfield (APP/P0240/W/17/3181269), Silsoe (APP/P0240/W/17/3170248 & 3172143), Cranfield2 (APP/P0240/W/17/3186914) Stotfold (APP/P0240/W/17/3176387), Meppershall2 (APP/P0240/W/17/3190584), Stotfold2 (APP/P0240/W/17/3184967), Henlow (APP/P0240/W/16/3164961), Cranfield3 (APP/P0240/W/17/3190779). In addition I have been referred to older decisions from 2015 and 2016 (APP/P0240/W/BB/3003634, APP/P0240/W/RR/2228154, APP/P0240/W/2228671 and APP/P0240/W/RR/3154220). These appeal decisions are material considerations.

¹Vallis v SoSE [2012] EWHC 578 (Admin) & St Albans DC v SSLCG [2015] EWHC 655

Main Issues

9. The main issues are:

- The weight to be given to relevant development plan policies;
- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the setting of Astwick Conservation Area;
- The effect of the proposal on the best and most versatile agricultural land, and
- The effect of the proposal on local infrastructure.

Reasons

Development Plan Policies

10. 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.
11. The adopted development plan for the area in which the appeal site is located is the Central Bedfordshire Core Strategy and Development Management Policies 2009 (CS), the saved Policies of the mid Bedfordshire Local Plan First Review 2005 and the Site Allocations Development Plan Document 2011 (DPD), all of which predate the revised Framework. Paragraph 213 of the revised Framework advises that existing policies should not be considered out of date simply because they were adopted prior to the revised Framework. Due weight should be given to them, according to their degree of consistency with the revised Framework.
12. As the Council's draft Local Plan 2018 (DLP) has yet to be examined, I agree with both parties, as detailed in the SOCG, that policies within it should attract limited weight.
13. During the hearing the appellant drew my attention to Policies DM4 and CS5 of the CS which it considered were both relevant to the appeal and out of date and therefore triggered the so called tilted balance within paragraph 14 of the Framework. Paragraph 11(d) of the revised Framework, slightly amends the wording within the tilted balance and I have taken account of this in my decision having regard to evidence submitted subsequent to the hearing from both parties.

Policy DM4

14. Policy DM4 of the CS permits housing development within the settlement envelopes of minor service centres such as Stotfold commensurate with the scale of the settlement. Beyond settlement envelopes, limited extensions to gardens will be permitted provided they do not harm the character of the area.
15. There is no dispute between the parties that the proposal, being outside the settlement envelope for Stotfold is contrary to Policy DM4. However there is also agreement between the parties that Policy DM4 is not fully consistent with the Framework. The inconsistency arises from the apparent restrictive nature of Policy DM4 in protecting the totality of the countryside for its own sake

- rather than recognising, different levels of protection for landscapes, and the countryside's intrinsic character and beauty in line with paragraph 170 of the revised Framework.
16. The dispute between the parties relates to the level of inconsistency and therefore the weight to be given to any conflict and whether that would trigger paragraph 11d of the revised Framework.
 17. The supporting text to Policy DM4 at 11.1, and Annex G of the CS makes it clear that Settlement Envelopes have been drawn to protect the countryside and prevent coalescence between settlements and not to reflect housing allocations which is the purpose of the DPD. Furthermore, its application aids the operation of Policy CS1 of the CS which seeks to direct most new housing to larger more accessible settlements which is in accordance with the aims of paragraph 8 of the revised Framework. There is nothing in the revised Framework to discount the use of settlement envelopes. Furthermore, as the Policy does not reflect housing allocations then there is no inconsistency with paragraphs 22, 23 and 60 of the revised Framework.
 18. Paragraph 11.1.15 of the CS also outlines circumstances when development outside of Settlement Envelopes may be acceptable to provide community facilities and housing development in accordance with the now defunct Planning policy Statement 7 – Sustainable Development in Rural Areas. Therefore, there is not a total restriction on land use outside of the settlement envelopes. The revised Framework seeks to protect and enhance valued landscapes and distinguish between the hierarchy of international, national and locally designated sites, allocating land with the least environmental or amenity value where consistent with other policies in the revised Framework. While Policy DM4 does not seek to differentiate between different landscapes within the countryside, the revised Framework also recognises the intrinsic character and beauty of the countryside. The Cawrey judgement² confirms that the loss of undesignated countryside is capable of being harmful in the planning balance.
 19. I appreciate that in order to meet the requirement for a five year housing land supply the Council relies on a number of sites outside of the settlement envelopes some of which have been granted planning permission by the Council. Furthermore, a number of allocated sites within the emerging local plan are proposed outside settlement envelopes. Inspectors on other appeal decisions have taken some or all of these factors to mean that Policy DM4 is out of date (Meppershall, Silsoe, Stotfold and Meppershall² as well as the older decisions from 2015 and 2016).
 20. However, there is nothing before me to suggest that such judgements as to whether to grant planning permission, or allocate sites outside of settlement boundaries, have been made in any other than a balanced way, taking into account material considerations as required. Consequently, Policy DM4 has not restricted development on appropriate sites. In this respect I have regard to the Daventry Court of Appeal legal judgement. Furthermore, I have already established that limited weight is to be given to the emerging plan. Moreover, at the time of the older appeal decisions the Council was unable to demonstrate a five year housing land supply and that is different to the situation in respect of the appeal before me now.

²Cawrey Ltd and SoSCLG and Hinkley and Bosworth BC [2016] EWHC 1198 (Admin)

³Gladman Developments Limited v Daventry District Council [2016] EWCA Civ 1146

21. I have also been referred to appeal decisions regarding sites elsewhere in the country, the Policy circumstances of which the appellant considers to be similar to the appeal before me now. However, I have no other details of the cases and as various Inspectors have pointed out the weight afforded by an Inspector to particular Policies in an appeal scenario is a matter of planning judgement based on the evidence before them and the way it is presented. Appeals outside of central Bedfordshire would have been considered against policies within a different development plan.
22. Drawing all of the above together, I would agree that there is some inconsistency between Policy DM4 and the revised Framework as it does not distinguish between different landscapes. However, the underlying objectives of the Policy are consistent with the revised Framework and therefore the conflict with the Policy still attracts moderate weight and cannot be considered to be out of date. As a result paragraph 11d of the revised Framework is not engaged on this basis.
23. The most recent appeal decisions that have been drawn to my attention are those pertaining to Henlow and Cranfield3, both of which involved the same appellant as this appeal. It was confirmed at the hearing that similar evidence was presented by both parties, both in respect of legal judgements and previous appeal decisions. Both Inspectors reached similar conclusions to myself with regard to Policy DM4. While therefore not determinative in themselves they reinforce my findings on this matter.

Policy CS5

24. I have carefully considered the cases put forward by both parties as to whether Policy CS5 of the CS is consistent with the revised Framework. This Policy relates to the provision of 17,950 new homes between 2001 and 2026 on a hierarchical approach. Irrespective of whether the Policy is up to date there is no dispute between the parties that Stotfold is a suitable location for new dwellings as advocated within the Policy. This together with the fact that it was not included within the Council's reason for refusal and no conflict is alleged with the Policy by the Council. This leads me to conclude that it is not one of the most important for determining the application.
25. I accept that the Inspectors on both the Cranfield and Cranfield3 decisions concluded that Policy CS5 is out of date and went on to apply the tilted balance within paragraph 14 of the Framework 2012 on that basis.
26. However, the wording in the revised Framework has changed since the issue of those two decisions and therefore they were not determined within the same policy framework as exists now.

Policy CS1

27. The appellant refers to Policy CS1 of the CS being inconsistent with the revised Framework. However, this Policy outlines the Council's overall hierarchical development strategy, and is not referred to by the Council within its reason for refusal. In my view therefore, it is not a Policy which is most important for determining the appeal.

Character and appearance

28. The Central Bedfordshire Landscape Character Assessment 2015 (the LCA) identifies that the appeal site is within Landscape Character Area 4C – Upper Ivel Clay Valley where defining characteristics include, amongst other things, mixed land use of arable farmland with pasture along river courses plus substantial areas of settlement, large and medium scale geometric fields bounded by hedgerows and open views over level farmland.
29. I saw this to be largely the case in the vicinity of the appeal site with a good amount of farmland providing the setting for the substantial area of Stotfold. To the northern edge of Stotfold, to the east of the appeal site, is a large housing estate known as Beauchamp Mill. Here houses are set back from Taylors Road behind a grass verge, but with very little other landscaping. This is in stark contrast to the substantial hedge opposite Beauchamp Mill which bounds the appeal site on its western boundary. While there are some gaps, these are limited and the hedge forms an important feature in aiding the transition from the built form of Stotfold to the open countryside. However, there is not, in my opinion an immediate transition from urban to rural, given the presence of housing on the Beauchamp Mill site. From my observations at my site visit, the full transition occurs at the northern edge of this development where there is open countryside on both sides of the road. I appreciate that the Beauchamp Mill development was both within the settlement boundary and on brownfield land. Nevertheless, it is part of the established character of the area and is very visible on its eastern boundary.
30. To the south of the appeal site is housing under construction as approved under application ref CB/17/01585/FULL, albeit that the houses on the northern edge of the development adjacent to the appeal site are substantially complete. At my request the Council supplied a copy of the proposed landscaping scheme for the site which shows that there should be a hedge on the northern boundary. However, from my observations on site the houses are sited so close to the boundary of the appeal site, there would be very little room for significant planting. The Council advises that matter is in the hands of the enforcement team, but I have not been advised of the likelihood of any action.
31. While there is some spacing between the houses on both the adjacent new housing estates, those on the northern edge of the houses to the south and the eastern edge of Beauchamp Mill are mostly viewed from surrounding vantage points as a solid edge of built development. I noted at my site visit that the housing on the northern edge of Beauchamp Mill are sited behind a pre-existing belt of trees and shrubs which give a rural appearance to an area, and softens views of the buildings.
32. To the west of the site the extent of the built up part of the village is represented by Fen End Industrial Estate. To the north is a row of houses on both sides of Astwick Road separated by open countryside. Appeal decision 3176387 granted planning permission for 100 residential dwellings on land forming the gap between the industrial estate and 84-96 Astwick Road, therefore increasing the amount of built development along Astwick Road.
33. Both parties agree that the appeal site does not constitute a valued landscape or one that is subject to designation. However, the Council consider that with reference to the Guidelines for Landscape and Visual Impact Assessment, third

edition (GLVIA3) the site has high importance within the landscape due to it being an enclave of agricultural land providing an attractive setting to Stotfold and Astwick creating a contrast between the tree lined streets and built development of the settlements with the openness and rich arable landscape within which the appeal site is located.

34. At the time of my site visit the appeal site was uncultivated but I understand it has been cropped in the past. The appeal site has substantial hedges on its east and western side. While some open views are available into the site from Taylors Road where the hedge is largely absent for a large stretch of the road after the end house on Beauchamp Mill, Astwick Road through gaps in the hedge and from footpath No 8, these are relatively localised viewpoints.
35. Due to its undeveloped nature, the appeal site contributes positively to the rural character and appearance of the area and the agricultural landscape highlighted in the LCA providing the setting for Stotfold and Astwick. However, within the wider landscape, views into the site are limited, and the site itself forms a large area of relatively flat land, fairly representative of the surrounding area which from my observations contains a high level of agricultural land. Therefore, while it is part of the countryside providing separation between Stotfold and Astwick helping to maintain the identity of each settlement, I would concur with the findings of the appellant's Landscape and Visual Impact Assessment (LVIA) that the appeal site has medium/low value in the wider landscape.
36. The introduction of up to 78 dwellings would change the character of the appeal site. Although the Council is happy with the methodology of the appellants LVIA, it does dispute the overall findings of the LVIA and those relating to individual receptors. It considers that the overall impact on the landscape would be high.
37. The proposed housing would be viewed from the various vantage points to the north within the context of existing built development to its eastern and southern boundaries. In addition following the issuing of the Stotfold appeal decision, the proposed housing would also be potentially seen in the context of a greater extent of housing on Astwick Road. Moreover, it would extend only very marginally further into the countryside than housing on Beauchamp Mill and Astwick Road. Therefore in my opinion it would relate well to Stotfold.
38. The existing housing development is visible within the landscape. In my opinion, the western boundary of the Beauchamp Mill development and the northern boundary of the development to the south present a fairly harsh mass of built development on the settlement edge which the LCA specifically seeks to avoid.
39. While the exact details of the layout and appearance of the dwellings would be reserved for future consideration, I have seen nothing to suggest that this site would be any different on completion of the development. Therefore taking into account the existing development on the edge of Stotfold, I am of the opinion that this would have a moderate adverse effect on completion of the development.
40. However, the development framework plan (DFP) shows that the appeal site would accommodate a strip of open space along its northern boundary which would include a footpath, swale and planting. On its north western boundary

there would be a slightly narrower strip of land and then a larger area of land to provide the required public open space and a footpath. The areas of green space would incorporate about 360 metres of new hedgerow together with tree planting.

41. While I appreciate that the DFP is illustrative only, the area of built development assumes 78 dwellings at 31 dwellings per hectare. I note that both parties agree, within the SOCG, that this would be an appropriate density. Given the nature of the surrounding residential estates and the edge of village location I see no reason to disagree. Therefore it is reasonable to assume that the proposal would be capable of delivering the areas of open space as proposed.
42. There was some debate at the hearing as to whether the extent of the strip, particularly on the northern boundary, would be adequate to effectively filter views of the development and whether the planting would have sufficient maturity at 10 years to ensure that the proposal would have the alleged visual impacts in the LVIA. The Council stated that when the footpath and swale have been provided there would be only about 8 metres available for planting. Furthermore the proposed species and density of planting would not provide effective mitigation. Moreover 10 years of growth would probably only result in trees of about 4 metres in height rather than the 6-9 metres alleged by the appellant. Therefore, the assessment of the impacts of the scheme in the longer term in the LVIA are inaccurate.
43. Nevertheless, the proposal before me does not include details of landscaping which would be considered at a later date. Therefore, any detail is at best illustrative. Furthermore, I have seen no substantive evidence to suggest that, even if the area for planting was restricted to a depth of 8 metre, this would effectively mean that the planting would not achieve its aim of filtering views of the development. Much will depend on the layout of the dwellings and their appearance, together with the specific detail of the landscaping scheme, all of which would be reserved for future consideration by the Council.
44. Therefore, even if the landscaping scheme takes longer to mature than that alleged within the LVIA I have seen no substantive evidence that the landscaping would not effectively mitigate the moderate landscape and visual effects of the development that would occur in the short term, so that in the longer term there would be limited adverse harm to the landscape.
45. I acknowledge that the proposal which has been approved by the Council for a site on the eastern side of Stotfold (CB/17/01642/OUT) has a significantly wider belt of open space and planting than the appeal proposal. The Stotfold Green Infrastructure Plan 2009 (GIP) includes aspirations for green infrastructure in and around the settlement, identified by the local community. The GIP shows that the site recently granted planning permission for housing by the Council to the east has a close relationship to the river corridor and hence is identified for green infrastructure provision. The appeal site and the area to its north are not specifically identified for any community aspirations for green infrastructure.
46. The proposed development to the west of Astwick Road included about 35% of the land for green infrastructure. While there is only 25% of the land identified for such purpose in the appeal proposals I do not consider this to be significant given that two of the boundaries of the appeal site would be adjacent to

existing residential development. Furthermore, the development to the south of the appeal site presents a harsh hard edge to the open countryside with very little green mitigation. While the extent of development within the countryside would be increased, the incorporation of the green corridor would represent an improvement on the existing situation presenting a softer edge to the settlement.

47. Based on my observations on site and using the appellant's plans 4746/39/02, 7146-L-06 and 7146-L-07 showing the proposed accesses and consequent hedge removal, I am satisfied that the proposal would necessitate the removal of about 65 metres of hedgerow on Taylors Road and about 4 metres on Astwick Road.
48. While the area of transition between the built development and open countryside would change, a significant amount of hedge would be retained and reinforced by new planting aiding the gradual transition from built development to the open countryside. Furthermore, the appellant proposes the translocation or replanting of the hedgerow that would be lost along the back of the visibility splay. While I have doubts about the efficacy of translocation given the size and maturity of the existing hedge, new planting would be an appropriate way to maintain rural characteristics within the proposal which are largely absent on the opposite side of the road. Therefore, while there would be a change in existing views existing characteristics would be retained.
49. On Astwick Road, a much smaller proportion of hedge would need to be removed, and I saw on site this was a small isolated portion of hedge between two gaps. As a result its removal would not be materially harmful.
50. The proposal would extend the urban edge of Stotfold further towards Astwick and in this respect there would be a degree of coalescence between the settlements. The Council confirmed at the hearing that if this appeal were to be dismissed then the area of land covered by the appeal site would be included within the Important Countryside Gap CG12 within Policy SP5 of the emerging Central Bedfordshire Council Local Plan 2035 (2018). Nevertheless, even if the appeal site were to be developed as proposed, there would still be an appropriate area of arable land between the settlements which would ensure that the separate identities of each settlement would continue to exist and the setting of Stotfold would be maintained.
51. Therefore I am satisfied that the proposal would meet the landscape strategy for the Upper Ivel Clay Valley, namely to enhance elements that have been degraded or lost and to create new features to enhance and strengthen the river valley character such as wetlands and tree planting to screen harsh urban boundaries and roads and increase biodiversity interest. In addition, in terms of new development, the LCA seeks the enhancement of hedgerows and landscape boundaries at exposed urban edges which would also be achieved. The LCA also seeks to resist development that will result in further loss/fragmentation of hedgerows and hedgerow trees and avoid the coalescence of towns and villages. However, any harm in this respect would be restricted given the limited extent of hedgerow to be lost and the mitigation proposed together with the extent of arable land that would still exist between the two settlements.

52. Nos 84-96 Astwick Road have an outlook facing north east and therefore largely away from the appeal site. I saw that the existing hedge along Astwick Road would largely obscure views from ground floor windows. Furthermore, first floor windows are not particularly high. If views are available above the hedgerow they would be mostly towards the northernmost extent of the development which would be behind the landscape screen. Therefore I agree with the LVIA that while there may be a moderate/minor adverse effect on completion of the development this would reduce to minor on maturity.
53. The view from properties opposite the proposed access on Taylors Road would change, while views from the upper floors of those properties further north would also change from open fields to built development. However, there is no right to a view, and the properties already have a view of built development on the adjacent land to the south, albeit oblique. Moreover, most of the existing hedge would be retained and new hedgerow would be introduced. Therefore I agree with the LVIA that while there may be a moderate/minor adverse effect on completion of the development this would reduce to minor on maturity.
54. Views from existing properties on Astwick Road and Taylors Road would be largely obscured by the houses under construction to the south of the appeal site. Drivers along Astwick Road and Taylors Road would largely be concentrating on road conditions.
55. I accept that the revised Framework seeks to achieve well designed places and that planning permission for developments of poor design should be refused. Furthermore paragraph 17 of the Framework requires that development safeguards and improves the environment. Nevertheless, I have found that in the long term the proposal would not be materially harmful to the character and appearance of the area. Furthermore, the details of appearance, landscaping, layout, and scale which make up most of the components that contribute to a well-designed environment are reserved for future consideration by the Council.
56. For the reasons above I conclude that, in the long term, there would be no material adverse effect on the character and appearance of the area and therefore there would be no conflict with Policies DM3, DM4, CS14, CS16 and DM14 of the CS. These seek to protect the character of existing settlements, protect important landscape features and highly sensitive areas from development, protect landscape quality, seek high quality design and respect for local distinctiveness.
57. I acknowledge that the Inspector on the previous appeal decision found that the proposal would have a moderate level of harm. However, he also found that the visual and landscape effects could be satisfactorily mitigated within a reasonable period of time, a view that I share. I have therefore concluded that in the long term there would be no material harm.

Setting of Astwick Conservation Area (CA)

58. The small settlement of Astwick is set to the north of the appeal site and is formed from a limited number of buildings located around the River Ivel which according to the Council's Conservation Area Appraisal 2009 (CAA) has been a factor in its past economy. This is evident in the number of farm and mill buildings within Astwick.

59. The CA is linear in nature encompassing the dispersed buildings. As a consequence it includes areas of open space within which the trees and landscaping give at times, enclosed areas which open out to, and have glimpsed views of, wider open spaces. Furthermore, the openness and sense of space gives a sense of tranquillity to the area. These characteristics, together with the examples of traditional mill and agricultural buildings make an important contribution to the significance of the CA.
60. The CAA highlights that Astwick is a small rural hamlet in a wide countryside setting with extensive views to the countryside. I saw this to be the case at my site visit and am of the opinion that the surrounding open countryside, predominantly in agricultural use, provides the setting for the CA and contributes to the significance of the CA, particularly given the relationship between the arable land and the mills within the CA.
61. The appeal site is located to the south of the CA and is an open field, currently uncultivated. Nevertheless, its open undeveloped nature contributes to the rural nature of the open countryside, particularly given the lack of any hedgerow along its northern boundary. While acknowledging the distance between the appeal site and the CA boundary and the presence of existing housing on the edge of Stotfold, I am of the opinion that the appeal site forms part of the wide countryside setting of the CA contributing to its significance in that regard.
62. I note that the CAA asserts that from the south, the village is entirely hidden by trees. I observed this to be the case at my site visit when I had only very limited views of roofs of some buildings visible through the trees from the south. Also, conversely, I saw that views towards the appeal site from footpaths 3 and 1 within the CA are restricted to glimpses through the substantial tree cover along the southern boundary of the CA. I accept that the views may be different when the deciduous trees lose their leaf. Nevertheless even in winter, due to the amount of planting and its density, this would be likely to still provide an effective screen. I note that the Inspector when determining the Stotfold appeal reached a similar conclusion when undertaking her site visit in March 2018 when it is unlikely that trees would be in full leaf.
63. These limited glimpsed views along footpaths 1 and 3 mainly comprise the existing built development on the edge of Stotfold. Footpath 8 from Bowman's Mill is partly enclosed and then as the user emerges over the footbridge walking towards Stotfold, the view is of a wider agricultural landscape within which the settlement sits and is visible. I would agree with the CAA that this forms a significant view to the south from the CA.
64. I acknowledge the point made by the Council, particularly with reference to viewpoint 3 within its Heritage Statement (HS) that although built development may seem to be a significant distance away on plan form, it can be visible and encroach into the CA. The development of the appeal site would bring housing closer to the CA. Nevertheless, given the substantial intervening distance between the CA and the appeal site, I am satisfied that the views would not be materially different to those existing, even from the edge of the CA on FP8. Furthermore, the current hard edge of development as viewed from the north, would be replaced by the landscaping belt on the edge of the proposed development, effectively providing a softer view from within the CA.

65. Accordingly, the wider countryside setting of the CA would be maintained, including the contribution made by arable land, along with the openness and tranquillity of the spaces within the CA. Therefore, for the reasons above I conclude that the proposal would not be materially harmful to the setting of the Astwick Conservation Area. There would therefore be no conflict with Policy CS15 of the CS. This seeks to protect, conserve and enhance heritage assets.
66. There was some dispute at the hearing regarding the relevance of Policy DM13 of the CS to the proposal. The Policy states that planning applications for development within CAs will be assessed against the Conservation Area Appraisals. While I accept the point made by the Council that the proposal has been assessed against the CAA, the appeal site is not within the CA and therefore this Policy has not been determinative.

Best and most versatile agricultural land (BMV)

67. The appeal site comprises around 3.35 hectares of Grade 2 (good) agricultural land. Footnote 53 of the revised Framework states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality should be preferred to those of higher quality.
68. The Council accepts that the loss of 3.35 hectares in the context of the amount of agricultural land across its area, of which 80% is BMV would be relatively small and well below the 20 hectare threshold for when consultation with DEFRA is required. Furthermore, it stated at the hearing that on its own, if all other matters were acceptable, this would not itself be a reason for refusal.
69. While the land therefore has some function in accordance with paragraph 118 b of the Framework, given the relatively small extent of land to be lost, I am not persuaded that the proposal relates to a significant development of agricultural land and therefore, I find no conflict with the Framework in this respect.

Local infrastructure

70. Policy CS2 of the CS seeks to secure developer contributions from any development which would individually or cumulatively necessitate additional or improved infrastructure, or exacerbate an existing deficiency.
71. The evidence before me shows that there is an immediate and sustained need for lower, middle and upper school places in the vicinity of the appeal site and it is accepted that the proposed development would increase demand for places. The UU makes provision for contributions towards early years, middle school and upper school to increase capacity at local schools based on a standard formula.
72. In addition, the UU includes a contribution of £25,309 towards a MUGA based on the requirements of the Council's Sport and Recreation Strategy as well as a contribution based on a standard formula, based on Sport England standards in accordance with the Council's Outdoor Sport Playing Pitch Strategy, in order to meet the sport and leisure needs of the future residents.
73. A contribution to waste recycling is included to secure the provision of wheeled bins for each dwelling. A contribution towards the costs of upgrading and improving the Public Right of Way network around the appeal site to

accommodate the rise in population and consequent increase in use of the footpaths is also included.

74. The UU secures the provision of 35% affordable housing on the site in accordance with Policy CS7 of the CS. Furthermore the obligation allows for the laying out and management of public open space on the site in accordance with Policy CS3 of the CS together with the provision and management of a SuDS.
75. The Council has confirmed that there are less than five legal agreements for each project for which a contribution is sought within the UU. Therefore, I am satisfied that this Section 106 Agreement is not affected by the pooling limit restrictions in respect of CIL Regulation 123(3). Based on the evidence before me, these obligations are necessary and meet the statutory tests contained in Regulation 122 and 123 of the CIL and the requirements of paragraph 56 of the Framework.
76. For the reasons above, I conclude that the proposal would not have a harmful impact on local infrastructure. There would therefore be no conflict with Policies CS2 and CS7 of the CS and the revised Framework.

Other matters

77. Concerns have been raised by local residents regarding the impact of the development on ecology, highway safety and living conditions. The Council in its Committee report stated that the proposals to deal with the ecology of the site, including the local toad population, and its enhancement could be secured through the implementation of a condition to any approval. I see no reason to disagree with this approach.
78. I have seen no substantive evidence which would lead me to depart from the views of the Highway Authority which raised no objections to the proposal on the grounds of highway safety subject to the imposition of conditions based on the contents of the appellant's Transport Plan.
79. Details of the layout, appearance and scale of the proposed dwellings would be reserved for future consideration by the Council. From my observations of the site and its relationship to surrounding dwellings I see no reason why a satisfactory scheme could not be implemented that would avoid any significant overbearing impacts or loss of privacy to neighbouring residents.

Conditions

80. I have had regard to the various planning conditions that have been suggested by the Council in its statement and the table provided by the appellant with comments suggesting alternative wording which was discussed at the hearing. I have considered them against the tests in the revised Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents.
81. In addition to the standard conditions relating to outline permissions and the submission of reserved matters, it is necessary to ensure, in the interest of certainty that the development is carried out in accordance with the approved plans and the number of dwellings is specified. The appellant confirmed at the hearing that the timescales for submission of details and commencement of development, suggested by the Council, were appropriate.

82. A condition regarding surface water drainage is required to ensure the satisfactory drainage of the site. The Sewerage Undertaker has confirmed that there is available capacity in the public sewerage system and therefore I have not imposed this element of the condition.
83. Specific details of the accesses are required to ensure that they are constructed to an adequate standard. I have also imposed a slightly amended condition regarding visibility splays to ensure they are in place before the development is brought into use and remain free of obstruction at all times.
84. A Construction Method Statement is required prior to work commencing on site to protect the living conditions of existing residents, existing hedgerows and highway safety. A condition regarding the submission of a Travel Plan is necessary to encourage alternative methods of transport to the private car. Details of the investigation and potential remediation of contamination is required prior to work commencing on site to protect the living conditions of future occupiers. I have imposed a simpler form of words than those suggested by the Council given the greenfield nature of the site. A condition regarding levels, materials and boundary treatment is necessary to protect the character and appearance of the area.
85. Policy DM2 of the CS requires that future new housing development will be expected to comply with mandatory standards in relation to the Code for Sustainable Homes. At that time that was a standard of 105 litres person per day. Since the abolition of the CSH the Building Regulations have been updated and this is now an optional requirement reliant on the imposition of a condition on any planning permission. Paragraph 150 of the revised Framework states that any local requirements for the sustainability of buildings should reflect the Government policy for national technical standards which is set out in the Planning Policy Guidance. The requirement within Policy DM2 is broadly in accordance with the national technical standard. While it is some time since the Policy was adopted I have seen no substantive evidence to suggest that the need for such a standard is not still relevant. I am therefore satisfied that a condition in respect of water efficiency is reasonable and necessary.
86. Policy DM1 of the CS states that all new developments of more than 10 dwellings should contribute to renewable energy targets by incorporating on-site or near-site renewable or low carbon technology. Developments should achieve 10% or more of their energy requirements through such sources unless it can be demonstrated that this would be impracticable or unviable. However, this does not align with the national technical standards which relate to the energy efficiency of the buildings themselves and not how they source their energy.
87. Nevertheless, the requirements of Policy DM1 would be broadly in accordance with Paragraph 151c of the Framework which states that plans should identify opportunities for development to draw energy supply from renewable or low carbon energy supply systems. While I acknowledge the appellant's comments regarding changes to the Building Regulations since the Policy was adopted would ensure that measures could be adopted which would ensure that efficiency of more than 10% could be achieved by other measures, I have seen nothing to suggest that the adopted Policy requirement would be impracticable or unviable and therefore I have imposed the condition.

88. A condition requiring a waste management scheme is necessary to ensure adequate provision for the removal of waste. A condition requiring a written scheme of archaeology is required prior to work commencing on site to ensure that any archaeological is appropriately recorded. A condition regarding the provision of fire hydrants is necessary in the event of an emergency.
89. I realise that the Inspector on the previous decision imposed a different set of conditions. However, based on the evidence presented to me at the hearing I consider that those I have imposed meet the requirements of paragraph 55 of the Framework

Conclusion

90. In this instance I have found that there is a technical breach of Policy DM4 of the CS as the proposed housing would be in the countryside outside of the settlement envelope of Stotfold. However, I have found that Policy DM4 is largely predicated on the need to protect the countryside and in that respect I have found no material harm to arise through the change in the character and appearance of the appeal site.
91. As a result, I am satisfied that the proposal accords with the development plan as a whole. In such circumstances, irrespective of whether the Council are able to demonstrate a five year housing land supply, paragraph 11c of the Framework advises that proposals that accord with an up to date development plan should be approved without delay. I have found that policies which are most important for determining the application are up to date.
92. The proposal would be in accordance with the policies of the development plan and there are no material considerations that would indicate otherwise. Therefore for the reasons above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Jonathan Easton, Counsel	instructed by:
Mr Chris Still	Gladman Developments
Ms Gail Stoten	Pegasus Planning - Appellant's Heritage Advisor
Mr Tim Jackson	FPCR - Appellant's Landscape Advisor

FOR THE LOCAL PLANNING AUTHORITY

Mr Alex Booth QC	instructed by:
Mr Philip Hughes	Council's Planning Consultant
Ms Alison Myers	Council's Landscape Planner
Mr Jonathan Prosser	Council's Conservation & Design Officer

DOCUMENTS SUBMITTED AT THE HEARING

- 1 List of Council's suggested conditions with comments included by the appellant
- 2 Note on relevance of quashed appeal decision submitted by the appellant
- 3 Development context plan

SCHEDULE OF CONDITIONS

- 1) Details of the 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 begins 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 two years from the date of this permission.
- 3) The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.

- 4) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers Location Plan 7146-L-04 and 4746/39/02.
- 5) The development hereby permitted shall comprise a maximum of 78 dwelling units.
- 6) No development shall take place until a scheme for the proposed method of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the timetable for provision and future management and maintenance. The surface water drainage facilities shall be constructed in accordance with the approved scheme before the development is first occupied and shall be retained and maintained thereafter in accordance with the scheme as approved.
- 7) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until a scheme of highway works has been submitted to and approved in writing by the local planning authority. The scheme shall detail the new junction onto Taylors Road and provision of shared footpaths/cycle connections onto Taylors Road and Astwick Road as well as any emergency access arrangements to Astwick Road. The approved scheme shall be implemented in full prior to the first occupation of the development.
- 8) The visibility splays shall be provided at the junction of the access with the public highway before the development is brought into use in accordance with the details on drawing 4746/39/02. The Visibility Splay shall remain free of obstruction thereafter.
- 9) The development shall not commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The statement shall include:
 - i) The proposed hours and days of working;
 - ii) Vehicle movement plans,
 - iii) Waste management measures;
 - iv) On site provision for construction worker and contractor vehicle parking;
 - v) Details of site compounds, offices and areas to be used for the storage of materials;
 - vi) Methods and details of dust suppression during construction;
 - vii) Proposals to minimise harm and disruption to the adjacent local area from ground works, construction noise and site traffic;
 - viii) Protection for all retained trees and landscaping;
 - ix) Details of a wheel washing facility; and
 - x) Contact details for site managers and details of management lines of reporting to be updated as different phases come forward.

The development shall be carried out in accordance with the statement so approved

- 10) No occupation of any dwelling hereby permitted shall take place until a residential travel plan in general accordance with the Framework Travel

Plan has been submitted to and approved in writing by the Local Planning Authority. The travel plan shall include details of:

- i) Predicted travel to and from the site and targets to reduce car use.
- ii) Details of existing and proposed transport links, to include links to both pedestrian, cycle and public transport networks.
- iii) Proposals and measures to encourage and facilitate walking, cycling and the use of public transport.
- iv) Timetable for implementation of measures designed to promote travel choice.
- v) Plans for monitoring and review, annually for a period of 5 years at which time the obligation will be reviewed by the planning authority.
- vi) Details of the appointment of a travel plan co-ordinator.

The travel plan shall then be implemented in accordance with the timetable contained therein.

- 11) No development shall take place until a risk-based land contamination assessment to determine the nature and extent of any contamination on the site has been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins.

If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.

- 12) Any application for reserved matters pursuant to condition 1 shall include:
- i) details of the existing and final ground, ridge and slab levels of the buildings. The details shall include sections through both the site and the adjoining properties.
 - ii) Details of the materials to be used for the external construction of the development hereby permitted.
 - iii) Proposed boundary treatments including the type and height of fences, hedges, walls or other means of enclosure

The proposal shall be developed in accordance with the approved details and the boundary treatment shall be implemented before the approved dwellings are first occupied.

- 13) No occupation of any permitted building shall take place until a waste management scheme has been submitted to and approved in writing by the Local Planning Authority. The waste management scheme shall include details of refuse storage and recycling facilities and provision of turning facilities for waste collection vehicles. The scheme shall be carried out in accordance with the approved details.

- 14) 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:
- i) Purpose and conservation objectives for the proposed works, including connectivity for toads, informed by a review of the ecological assessment.
 - ii) Review of site potential and constraints.
 - iii) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - iv) Extent and location/area of proposed works on appropriate scale plans.
 - v) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - vi) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - vii) A mechanism of allowing the developer to advise the Council of the persons responsible for implementing the works.
 - viii) 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.

- 15) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings 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 as approved. Thereafter the fire hydrants shall be retained as approved in perpetuity.
- 16) No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be implemented in full accordance with the approved scheme.
- 17) No development above slab level shall take place until details of a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall 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 which shall thereafter be retained in operation
- 18) No development above slab level shall take place until a scheme of measures capable of achieving a water efficiency standard of 110 litres per person per day (105 litres for internal use plus 5 litres for external use) has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.