



Appeal Decision

Hearing Held on 31 October 2018

Site visit made on 31 October 2018

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 11th December 2018

Appeal Ref: APP/P0240/W/18/3199756

Land rear of 116 - 126 High St, 1 - 11 Gardeners Lane and 2 - 24 Langford Rd, Henlow, Bedfordshire SG16 6AF

- 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 William Willoughby (Estates) Ltd and Messrs M and A Crawley against the decision of Central Bedfordshire Council.
 - The application Ref CB/17/03338/OUT, dated 7 July 2017, was refused by notice dated 20 October 2017.
 - The development proposed is described as 'Outline application: Up to 59 dwellings following demolition of 14 and 16 Langford Road to provide new access, new access roads within the site and car parking. Creation of 2.43 hectare extension to the existing Millennium Meadow with pedestrian access links and landscaping. All matters reserved except access'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the access. I have assessed the proposal on this basis and treated the drawings as being an illustration of how the proposal could ultimately be configured.
3. I have accepted the amended Landscape Design Scheme (LDS)¹ deposited with the appeal. This supersedes that originally submitted to the Council. No party has been significantly prejudiced by this course of action as the plan was submitted at the outset of the appeal, thereby giving all parties a chance to consider it, and it is simply an indication of how part of the appeal site could be landscaped.
4. In light of the evidence before me, including comments expressed by a previous Inspector², it is apparent that the appeal site is within the setting of the Church of St Mary the Virgin, which is listed Grade I. Accordingly, the Council should have publicised the application as such and consulted Historic England³.

¹ Reference 4221/02/17-2776 Version 4 dated 12/03/18

² Paragraph 13 of Appeal APP/P0240/A/15/3003634

³ See Paragraph 051 Reference ID: 18a-051-20140306 of the Planning Practice Guide and the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended)

5. As a consequence of the foregoing, the hearing was adjourned following my site visit in order for the Council to complete the above actions. Historic England wrote to the Council on the 12 November 2018 and confirmed that it did not wish to offer any comments. No additional comments were received from other parties in response to the additional consultation. The hearing was subsequently closed in writing. During the adjournment the appellants were given an opportunity to finalise and submit a planning obligation. This was received on the 16 November 2018.

Main Issues

6. During the hearing the appellants and the Council confirmed that they had reached agreement on the extent and nature of the mitigation sought to offset the impacts of the proposal upon local infrastructure. The mitigation being financial contributions towards local schools, a local leisure centre, upgrades to a footpath and provision of bus shelters. The Council are no longer seeking contribution towards changing facilities at Henlow Camp or travel plan monitoring, as they would be unnecessary.
7. All of the contributions would be secured through the planning obligation submitted by the appellants. Having reviewed the evidence submitted I am satisfied that the contributions are necessary, directly related to the development and reasonable in scale and kind. As such, they are matters to which I can have regard and therefore the appellants have satisfactorily overcome the Council's third reason for refusal. As a consequence, the main issues in this appeal are:
 - Whether the proposed development would be in a suitable location, with particular reference to policies concerned with the location of new housing;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the appeal scheme makes adequate provision for affordable housing.

Reasons

Whether the proposed development would be in a suitable location, with particular reference to policies concerned with housing in rural areas

8. The Council's Proposals Map establishes and defines 'Settlement Envelopes' in order to define the boundaries between settlements and the surrounding countryside. The boundaries reflect the character of land uses and are based on clear physical features on the ground. The supporting text to Policy DM4 of the CSDMP⁴ states that settlement envelopes are in place to enable the clear, unambiguous and consistent application of planning policies and to protect the countryside from inappropriate development.
9. The wording within Policy DM4 states that the Council will approve housing, employment and settlement related development within the settlement boundaries. It does not specifically state that development outside the settlement envelopes will be resisted but when the policy is read in context,

⁴ The Central Bedfordshire Core Strategy and Development Management Policies 2009

and as part of the overall spatial strategy in the CSDMP, it is apparent that there is a negative corollary to this effect.

10. The appeal scheme is for the erection of up to 59 homes on land outside of a settlement envelope. It would not amount to any of the particular types of development identified in Paragraph 11.1.15 of the CSDMP. Thus, when judged against Policy DM4, the proposal would not be in a suitable location. Permitting it would harmfully undermine the approach to the location of new housing set out therein and the consistency and relative certainty that should flow from a plan led approach to the location of new development.
11. The evidence before me suggests that the Council's housing requirement may have increased since the CSDMP was adopted and as a result the Council has struggled at times to demonstrate a five year housing land supply, as it is required to by the National Planning Policy Framework (the 'Framework'). In order to establish an adequate supply it has been necessary to release land in the countryside for housing by attaching reduced weight to any conflict with Policy DM4. Nevertheless, the Council are currently able to demonstrate a five year housing land supply. Therefore, the weight to be attached to Policy DM4 should not be reduced in this instance because the housing requirement has increased.
12. Policy DM4 of the CSDMP pre dates the Framework and Paragraph 213 therein states that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework seeks to protect and enhance valued landscapes and affords great weight to conserving and enhancing the landscape and scenic beauty of nationally important landscapes, such as national parks. In addition, planning policies and decision should recognise the intrinsic character and beauty of the countryside. As a consequence, even 'ordinary' or undesignated countryside, which is not a valued landscape, has an intrinsic character and beauty and this must be acknowledged in planning decisions.
13. Policy DM4 seeks to protect the countryside by directing new development to sites in settlement boundaries. As such, Policy DM4 seeks to recognise the intrinsic character and beauty of the countryside and is therefore broadly consistent with the Framework, which does not discount the use of settlement envelopes. However, Policy DM4 treats countryside in a blanket fashion and seeks to protect all areas of it rather than just valued or nationally important landscapes. This reduces the weight it can be afforded.
14. Nevertheless, case law confirms that harm to ordinary countryside is capable of attracting weight in a planning balance⁵ and the Framework does not state that the loss of undesignated countryside cannot be harmful. It is therefore a point of common ground between the Council and appellant that the conflict with Policy DM4 should be afforded moderate weight. This is a conclusion that has been reached in numerous appeal decisions⁶ and in the circumstances I agree.

The effect on the character and appearance of the area

15. The appeal site is located on the edge of Henlow, which was historically a linear settlement. This pattern has been eroded in more recent times by estate housing development. In broad terms the settlement of Henlow abuts the

⁵ The 'Cawrey' Judgement [2016] EWHC 1198

⁶ See Core Documents

western boundary of the appeal site and about half its southern boundary. Its northern boundary is delineated by a thick hedge that separates the appeal site from an arable field. The remaining section of the southern boundary, and the entire eastern edge of the development, are bounded by the Millennium Meadow.

16. The appeal site is an agricultural field that gently slopes down towards the River Ivel. It has roughly been divided in half by a hedge that was planted approximately three years ago. Save for the newly planted hedgerow and the occasional tree, the appeal site has few distinguishing features that would mark it out as a valued landscape when applying Landscape Institute Guidelines. However, it is open and undeveloped in nature and this provides a buffer between the settlement edge and the Millennium Meadow/River Ivel Corridor.
17. The Millennium Meadow has been established by the local community. It is an area of grassland broken up by patches of planting. It is bisected by, and connects to, adjoining footpaths. It appears to be very well used and valued by the local community. The Meadow area adjoins, and is viewed as part of, the River Ivel corridor. The river corridor is an attractive semi natural area characterised, in the vicinity of the appeal site, by the meandering river, fishing lakes, river meadows and woodland. This area has a high sensitivity to change. The appeal site is located within the setting of this landscape feature but of itself has a medium sensitivity to change given the settlement edge.
18. When in the Millennium Meadow there is a relative sense of tranquillity and separation from Henlow. However, the settlement edge, particularly Gardeners Lane, is constantly apparent. This is the case until one heads north past Kingfisher Farm or east over the river, from where the settlement is largely screened by the trees along the riverside. Thus, the settlement edge of Henlow is an established component of the area and is viewed from the Millennium Meadow as being neither near nor far away. Nevertheless, the open buffer provided by the appeal site enables the Millennium Meadow to have a sense of tranquillity, where users can be away from the village edge.
19. The proposal is to erect up to 59 homes on the western side of the existing hedge that bisects the appeal site. The eastern half would be given over to open space and would probably form an extension to the Millennium Meadow. The erection of such a large body of housing would result in an urbanisation of the western half of the appeal site that would entirely alter and harm its existing open and undeveloped character and appearance. It would therefore appear as a clear breach of the settlement envelope even though it would not project past the eastern extent of Gardeners Lane. This harmful impact would be balanced to an extent by the eastern half of the appeal site, which would be given over to a landscaped open space. This would improve the visual amenity of this part of the appeal site and provide a more logical transition from the settlement through the Millennium Meadow to the river valley and arable countryside beyond. Overall, the net impact upon the appeal site would be moderately adverse.
20. The appeal scheme would represent a significant expansion of the village. The mass of housing would be located behind, and viewed in between, the frontage development that lines Langford Road and Gardeners Lane and this would erode the linear character and grain of the settlement as it tapers off into the countryside.

21. Housing estates of the size proposed are untypical in the village but there are small to medium sized estates on its periphery. In this respect, some housing within the appeal site need not appear as an incongruous intrusion into the countryside but the extent of development proposed would not harmonise with the localised form of the village. This would be the case even when factoring in the moderate visual containment that would be afforded to the appeal scheme by the properties in Gardeners Lane and Langford Road.
22. The appeal scheme would result in the settlement edge moving notably closer to the Millennium Meadow and thus the river corridor. The proximity of such a mass of housing to this area, arranged in depth, would seriously diminish the sense users of meadow currently have of being away from the village and in the countryside. The development would also be readily apparent from, and close to, the footpath along its northern boundary and those through the meadow. Thus, the appeal scheme would have a significantly harmful impact upon the setting of the Millennium Meadow and the River Ivel Corridor.
23. To this end the appellants have suggested the reserved matters could include mitigation through design to lessen the impact upon the Millennium Meadow and the river corridor. Housing along the eastern edge of the residential part of the site could be small in scale, positioned with intervening gaps and angled to face the Millennium Meadow so as to provide an active edge. Moreover, the residential element could have landscaping within it to break up the roof scape and the existing hedgerow crossing the appeal site could be strengthened. The individual houses could also be of an attractive design and finished in suitable materials. These would all be necessary components of the final design but they would not, in themselves, render the scheme acceptable due to the number of homes proposed and the proximity to the Millennium Meadow.
24. Accordingly, the appellant has suggested that the eastern part of the appeal site could also be extensively landscaped with pockets of dense planting and orchards. A potential scheme is shown as the 'Landscape Design Scheme' (LDS). The appellants submit that with such an extensive landscaping scheme the settlement edge would be improved relative to the existing, which is somewhat hard because the properties along Langford Road and Gardeners Lane are orientated in a way that exposes their rear elevations to the countryside, an impact compounded by the ad hoc boundary treatment. Moreover, they opine that the river valley and amenity of the public footpaths would be improved as the extra landscaping would create a more enclosed and intimate environment focussed on the River Ivel. If this was the case then the tranquillity and recreational value of the river corridor and Millennium Meadow could be enhanced.
25. The existing impacts upon the countryside of the development along Langford Road have been overplayed by the appellant as the boundary treatment is partially screened by the recently planted hedge, and the landscaping within the long gardens serving these properties filters views of them from the east. Nevertheless, there is some traction to the arguments put forward that the proposal would improve the intimacy of the river corridor and soften the presence of the properties along Gardeners Lane.
26. However, due to the overall size of the proposal, the potential mitigation outlined in the LDS does not dissuade me from a finding that the development would have a looming presence over the Millennium Meadow and would be

experienced as a large, visually intrusive and comparatively⁷ dense mass of housing positioned close to the settlement edge. Accordingly, it would significantly harm the local landscape and thus the character and appearance of the area.

27. Furthermore, I have seen nothing of substance that demonstrates that the landscaping in the LDS would be effective, throughout the year, in screening the bulk of the housing until 15 years after it was planted. It is at this point that the net benefit identified in the LVIA may be realised. In the interim the impacts on the Millennium Meadow would be considerable due to the number of homes proposed, their proximity to it and the rising land levels. If the development was laid out in the way shown on the indicative drawings then housing would be positioned along most of the edge of the development. The five detached houses and their garages in the south east corner of the residential area would be especially stark. This would also be compounded by the detached housing in the north eastern corner of the appeal site. Only the housing directly abutting the existing settlement edge would not be seen as harmfully encroaching upon the setting and tranquillity of the Millennium Meadow.
28. In any event, the Landscape Design Scheme does not set out firm proposals since the landscaping of the site, and its layout, are reserved matters. It would be unreasonable to secure a detailed landscaping scheme through a planning condition at this stage in such circumstances. Moreover, I have not been presented with a detailed landscaping strategy, evidence to demonstrate that the level of landscaping proposed would be deliverable and visualisations and sections to demonstrate it would be effective as a screen. Consequently, regardless of its potential effectiveness as mitigation, the LDS is no more than an aspiration and cannot be given significant weight as a factor that would address the harmful impacts of the proposal.
29. The Council's Landscape Officer (LO) in her detailed comments on the appeal scheme raising objections to the proposal stated that, in principle, she would not object to the development of the proportion of the site proposed if the detailed design brought forward a stronger internal landscape and a comprehensive scheme for the riverside. For the reasons already given I do not consider the proportion of the site proposed for development can be delivered without harming the setting of the Millennium Meadow and Ivel River Corridor. The LO has not seen the revised LDS so it is unclear whether it has overcome her objection in any event.
30. The Council's Landscape Character Assessment includes a broad landscape strategy and guidelines for new development in the Upper Ivel Clay Valley Landscape Character Area. The appeal scheme could enhance and create aspects of the defining character of the area, such as river meadow and new woodland planting. It could also improve connectivity between the village and the river corridor. However, the appeal scheme would also include a large body of estate housing. Due to its overall size and the resulting visual presence, it would not safeguard the rural character of the Ivel Corridor and thus meet the guidelines taken as a whole.
31. I therefore conclude that the appeal scheme would significantly harm the character and appearance of the area and this would result in a conflict with

⁷ When compared to the housing along Langford Road, which have large rear gardens.

Policies DM3 and CS16 of the CSDMP. These policies seek to secure development of the highest quality that are respectful of local context and either conserve or enhance the varied countryside character and quality of the wider landscape. These policies are consistent with the National Planning Policy Framework and therefore form a reasonable basis upon which to consider the appeal scheme. Thus any conflict with them can be afforded significant weight.

Whether the appeal scheme makes adequate provision for affordable housing

32. Policy CS7 of CSDMP requires 35% of the new homes within a residential development to be affordable housing. The appellant has no objection to providing this but there is a dispute between the Council and appellant as to whether the 35% should be based on the net or gross number of homes proposed. This comes about because two existing homes are proposed for demolition as part of the development. If the net figure is used then the appeal scheme should provide 20 affordable homes whereas if the gross figure is used then 21 homes are required to be affordable.
33. Policy CS7 and its supporting text fails to clarify this matter and I have not been directed to anything in emerging policy or exiting supplementary planning guidance on this point. Both the Council and appellant reviewed national guidance for a steer without success and this was not a point in dispute in other recent appeal decision, so there is no relevant case law which would be material to my deliberations. Consequently, I have fallen back on the tests relating to planning obligations in Paragraph 56 of the Framework as the affordable housing would be secured through a legal undertaking. The requirement for any planning obligation to be reasonable in scale and kind is especially relevant in this instance.
34. With the foregoing in mind, and based on the specific evidence before me, I consider it would be reasonable and equitable to base the level of affordable housing on the net increase in the number of homes. This is because the demolition of the two homes must take place and cannot be ignored as part of the proposal as a whole. The planning obligation would secure this and therefore a conflict with Policy CS7 would not occur.

Other Matters

35. The appeal scheme would be in the setting of the Church of St Mary the Virgin and the proposed housing would obscure views of it from numerous vantage points. Nevertheless, I have not considered this matter further as the appeal has failed for other reasons.
36. The Council have raised concerns with the drafting of the appellants' planning obligation. For example, the obligations would not be enforceable upon all of the owners of all of the land that comprises the appeal site and there is some dispute over some of the definitions and the extent to which the Parish Council should be involved. The evidence before me on the legal soundness of the planning obligation is contradictory but even if I accepted that it was correctly drafted my overall conclusion would remain unchanged and therefore I have not considered this point further as the appeal has been dismissed (and therefore the planning obligation will not come into force).
37. Various concerns have been raised by interested parties in respect of highway safety and the loss of agricultural land, which I have noted. However, given

my overall findings it has not been necessary for me to address these matters further as the appeal has failed.

Planning Balance

38. The appeal scheme would be contrary to Policy DM4 of the CSDMP as it would amount to housing outside a settlement boundary. This conflict attracts moderate weight. It would also significantly harm the character and appearance of the area in conflict with Policies DM3 and CS16. This attracts significant weight. An application should be determined in accordance with the development plan unless material considerations, such as the benefits of the proposal, indicate otherwise.
39. The appeal scheme has the potential to deliver an extensive area of Green Infrastructure (GI) as an extension to the Millennium Meadow, which in turns links with the River Ivel Corridor, an important GI network. However, the Henlow Green Infrastructure Plan identifies the entire appeal site as a potential extension of the Millennium Meadow and therefore the appeal scheme would permanently inhibit this community aspiration. For this reason the Council's GI Officer suggests the weight to be attached to the delivery of GI within the appeal scheme should be 'net neutral'.
40. The Henlow Green Infrastructure Plan was published in 2010 and although endorsed by the Council it is not a supplementary planning document. Moreover, there is no specific land allocation or policy in either a Neighbourhood Plan or the emerging Local Plan addressing the project. Additionally, the Millennium Meadow extension is identified as the lowest priority project in the GI Plan and the action plan therein does not include any details of how the project would be realised. I have seen nothing to suggest the project has moved forward in since the GI Plan's publication in 2010.
41. I accept that the lack of progress in the project may be down to the landowners' development ambitions. However, the delivery of some housing seems the most pragmatic way of delivery the community's aspiration in the absence of any other mechanism. It was explained at the hearing that the Millennium Meadow was originally delivered in this way through the construction of Gardeners Lane. As it is unlikely the extension to the meadow would be delivered without some form of facilitating development, the benefit would be greater than net neutral. However, as the amenity of the extended area would be seriously compromised by the presence of such a large body of housing the benefit of its provision would only be of moderate weight.
42. The appeal scheme has the potential to deliver net gains to biodiversity but the extent of this benefit is unquantified. The proposal would deliver housing but the Council can presently demonstrate a five year housing land supply and is therefore currently significantly boosting housing supply. The delivery of affordable housing would be an additional benefit but the Council can currently demonstrate a cumulative surplus against the identified need. The appeal scheme would support the local economy through construction jobs and the general circulation of funds. However, the practical effect of this has not been demonstrated and local services and facilities are not failing due to lack of patronage. In fact, in some respects the reverse is occurring given the need for the appeal scheme to mitigate the impacts on local schools, for example, which have limited capacity. I afford these benefits moderate cumulative weight.

43. As a matter of planning judgement the cumulative adverse impacts of the appeal scheme would outweigh its cumulative benefits. This does not indicate that a decision should be made other than in accordance with the development plan.

Conclusion

44. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Sarah King	Planning Consultant
Ian Dudley	Landscape Architect
Marcus Crawley	Appellant
Adrian Crawley	Appellant
Simon Jones	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Philip Hughes BA (Hons) MRTPI Dip Man MCIM	Planning Consultant
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INTERESTED PARTIES

Sharon Needham	Local Resident
Justine Salisbury	Local Resident

Ben Weedall	Observing
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DOCUMENTS SUBMITTED AT THE HEARING

1. Henlow Green Infrastructure Plan 2010
2. Revised Summary and Conclusion to Mr Dudleys LVIA (missing from the original submission)