The Planning Inspectorate

Appeal Decision

Inquiry held on 12 to 15 May 2015
Site visit made on 13 May 2015

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

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

Decision date: 29 June 2015

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

- 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/14/00186/OUT, dated 17 January 2014, was refused by notice dated 10 October 2014.
- The development proposed is of up to 110 houses to include associated roads, drives and public open space.

Decision

1. The appeal is allowed and planning permission is granted for up to 110 houses to include associated roads, drives and public open space on land to the east of Station Road, Langford, Bedfordshire in accordance with the terms of the application, ref. CB/14/00186/OUT, dated 17 January 2014, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. The application form indicates that all matters of detail other than access are reserved for future determination. However, it is common ground that the scheme would accord with the parameters set out in development framework plan no. 5540-L-02 rev J, and I have taken this into account in my decision.

3. The Council's evidence in respect of objectively assessed housing needs and five year land supply changed shortly before the inquiry commenced. As clarified at the inquiry, this involved the issuing of amended proofs of evidence from two of its witnesses[1] and the addition of the Luton and Central Bedfordshire Strategic Housing Market Assessment Update (Draft 1 May 2015) (the draft 2015 SHMA) to the inquiry documents[2]. It was also clarified that where there were discrepancies between the proof of evidence of the Council's housing needs witness and the details of the draft 2015 SHMA, then it was the latter that represented the Council's case to the inquiry.

[1] Amended proofs from Mr Fox and Mrs Dilley, dated 1 May 2015 and 7 May 2015 respectively.
[2] Inquiry document 8. Documents tabled at the inquiry are listed in this decision as 1, 2, 3 etc, while core document references are prefixed with CD.

Main Issues

4. Notwithstanding comments in its written evidence[3], the Council accepted at the inquiry that it does not raise a concern in respect of the scheme's accessibility to local services and facilities – a matter that did not, in any event, form part of its refusal reasons. Specifically, it is common ground that Langford is both a sustainable settlement and an appropriate location in principle, subject to scale, for new housing[4]. Accordingly, the main issues in this appeal are:

   (a) whether the Council can demonstrate a five year supply of housing against a full objective assessment of housing need as required by paragraph 47 of the National Planning Policy Framework (the Framework); and

   (b) the effect of the proposal on the area's character and appearance.

Reasons

Housing Land Supply and the Objective Assessment of Housing Needs

5. In development plan terms, the housing requirement for Central Bedfordshire is set out in its Core Strategy and Development Management Policies (CSDMP), adopted in 2009. However, it is common ground that this document, which predated the publication of the National Planning Policy Framework (the Framework), did not undertake an analysis of housing needs in the terms that paragraph 47 of the Framework now requires[5]. Rather, its housing requirement is derived from the East of England Plan (the Regional Strategy RS) – now revoked – with which it was required to be in general conformity.

6. It is also common ground that the RS requirement represented a constrained figure rather than an objective assessment of needs in the sense that is now required by the Framework. Paragraph 5.5 of the RS[6] notes that its overall minimum housing target falls significantly short of what is needed based on evidence about housing pressure, affordability and household projections. Furthermore, and in any event, the analysis that underpinned the RS (which was adopted in 2008) is now substantially out of date. Taking these matters together, and with reference to Hunston Properties Ltd v St Albans CDC and SSCLG[7], it is clear that the CSDMP housing requirement does not amount to an objective assessment of housing needs from which a five year supply of housing can be derived. Indeed, the Council does not seek to claim this.

7. Nevertheless, in the present appeal the Council considers that a five year supply of housing land, as required by the Framework, can be demonstrated. Its case in this regard rests upon two main elements, both of which are disputed by the appellant. First, the Council argues that the draft 2015 SHMA represents a full objective assessment of housing needs in the terms of the Framework. In summary, this suggests an overall housing need of 29,500 dwellings over the period 2011-2031, equating to 1,475 dwellings per annum (dpa). Taking into account an acknowledged shortfall of 841 dwellings, applying a 20% buffer[8] (although not applying the 20% figure to that buffer),

[3] Notably paragraphs 11.1 to 11.11 of Mrs Newcombe's proof of evidence.
[4] Accepted by Mrs Newcombe in cross-examination.
[5] Accepted by Mr Fox in cross-examination.
[6] Document 9.33.
[7] [2013] EWCA Civ 1610 (document CD8.01).
[8] The Council accepts that there has been a record of persistent under-delivery of housing (paragraph 6.2 of Mr Fox's amended proof of evidence).

and using the 'Sedgefield' method of calculation, the Council considers that this equates to a five year land requirement of 9,691 dwellings[9]. In respect of the supply of housing, the Council's most recent evidence[10] is that there is a deliverable supply of 10,237 dwellings, equating to 5.28 years (or a 'surplus' of 546 dwellings over the required figure).

8. Notwithstanding the fact that the above-noted assessment of housing needs has itself been challenged by the appellant (a matter that I return to below), I have three main concerns about the Council's housing land supply evidence.

9. First, a significant reliance is placed upon a small number of strategic sites. Two of these, listed as sites HT058 and HT059 respectively[11] (totalling 725 dwellings within the five year period on the Council's assessment), raise particular concerns. Both lie in the Green Belt, outside existing Settlement Envelopes. Neither has planning permission and, in the case of site HT059, a planning application is yet to be submitted. Neither are site allocations: while both were proposed as such in the Development Strategy for Central Bedfordshire (DSfCB), the examining Inspector has taken the view that the statutory Duty to Co-operate has not been complied with and, unless the Plan is withdrawn, he will have no option but to recommend non-adoption[12]. While this decision is the subject of a legal challenge by the Council, the Council does not dispute the appellant's assertion that the presumption of regularity (in that administrative decisions are considered to be lawful until such time as they are quashed) applies in this case. In any event, the proposed allocations were not considered in detail in the DSfCB examination.

10. National planning policy attaches great importance to Green Belts. Inappropriate development, which includes housing on the scale proposed at sites HT058 and HT059, is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It is accepted that other planning permissions have been granted in this broad location and have not been called in by the Secretary of State. It is also noted that a previous legal challenge, now resolved, in respect of a nearby site (HT057) may have acted to delay these two sites in coming forward.

11. However, I share the view of another Inspector who considered a similar argument in 2014[13] that it would be difficult to rely upon unallocated Green Belt sites without planning permission given the terms of national policy and that the level of objection is unknown. To do so would be to prejudge (1) the timescale for the submission of a planning application in the case of HT059, (2) the timescale of the Council's consideration of both applications (although it is noted that a committee date has been announced in respect of HT058), (3) the likely outcome of such consideration, bearing in mind that both applications would be contrary to the development plan and national policy and that objections can be anticipated in both cases, (4) the likely outcome of any call-in decision by the Secretary of State, (5) the timescale for the submission and consideration of the required reserved matters applications (assuming that outline permission is granted) and (6) the timescale for construction of dwellings, assuming that the required permissions are in place.

[9] Section 6 of Mr Fox's amended proof of evidence. It was confirmed in his evidence in chief that the figures in table 1 of his proof are in error: these were corrected verbally at the inquiry.
[10] Amended proof of evidence by Mrs Dilley.
[11] The disputed elements of housing land supply are summarised in inquiry document 12.
[12] Document CD10.07.
[13] Appeal ref. APP/P0240/A/14/2215889 (land to the rear of 102 to 126 High Street, Henlow) (document CD7.15).

12. For these reasons, I do not feel that the 725 dwellings that the Council anticipates coming forward from sites HT058 and HT059 are deliverable in the terms required by the Framework. They are not available now, they do not offer a suitable location for development now (as they are in the Green Belt and unmet need for housing is unlikely on its own to constitute the very special circumstances justifying inappropriate development) and I do not consider that there is a realistic prospect that housing will be delivered within five years. Deleting these sites from the five year supply, even if the other disputed sites were to come forward as the Council envisages, would mean that the Council could not achieve the 9,691 dwelling requirement that it has identified.

13. Second, the resulting shortfall is exacerbated by the approach that the Council has taken to windfall developments. Although a windfall element was added to its land supply calculations at a late stage (the week before the inquiry), I do not share the appellant's view that a late change of position is in itself a reason to discount this evidence. Neither is the fact that the Council has not itemised the likely small windfall sites. They are, by their very nature, unpredictable. I accept the Council's argument that its Strategic Housing Land Availability Assessment (SHLAA) was aimed at identifying sites for allocation through the Local Plan process: notwithstanding the Framework's requirement that windfall allowances should have regard to the SHLAA, the identification of small sites would serve little purpose in a Local Plan site allocation exercise. Moreover, paragraph 48 of the Framework clearly allows – as a matter of principle – for windfall sites to be taken into account when assessing housing land supply.

14. However, the Framework also requires that any allowance should be realistic having regard to historic windfall delivery rates and expected future trends. It should also not include residential gardens. In the present case, the Council's data[14] only take into account a four year period. While earlier figures are presented in the SHLAA[15], these are not directly comparable as they do not disaggregate small and large sites or (for most of the years) identify whether sites were on residential garden land. When residential garden sites are discounted, the four year data show an average of 200 dwellings per annum (dpa). However, windfall completions were below that figure in three of the four years: as such, the 200 dpa allowance cannot be said to have been consistently achieved. It is therefore not a 'conservative assessment' as the Council suggests. While there may be a potential for larger sites to come forward, the fact that the Council has made additional allowances for 'new allocations' and 'windfall (15+ permitted)' in its land supply assessment means that any additional allowance for large windfall sites would risk double counting. These factors indicate that reliance on a 200 dpa windfall allowance for years 3, 4 and 5 of the five year period is overly optimistic.

15. The above argument suggests that the Council's reliance on a total of 492 dwellings coming forward on small sites[16] in years 1 and 2 of the five year period is also flawed. Delivery of the scale required (246 dpa) was only achieved in the most recent of the four years itemised. It is unclear on what basis the Council assumes that all of these permissions will be completed within a two year period: it seems to me that there is a risk of some of these

[14] Table 2 of Mrs Dilley's amended proof of evidence.
[15] Table 1 of document CD9.11.
[16] 'Windfall (Up to 14 permitted)' in table 1 of Mrs Dlley's amended proof of evidence.

permissions not being completed until later in the five year period, leading to double-counting with the above-noted windfall allowance for years 3 to 5.

16. Third, I share the appellant's view that the 20% buffer, which the Council agrees should be applied to the five year housing land requirement, should also be applied to the shortfall. I accept that relevant decision-makers have taken contrary positions on this matter. However, it seems to me that in the present case the shortfall can reasonably be considered to form part of the 'housing requirement': indeed, the Council has described 9,691 dwellings as the 'five year requirement figure for Central Bedfordshire'[17]. Given that the Framework (paragraph 47) seeks to boost significantly the supply of housing, and noting that – on its own figures – the Council accepts that a step change is needed over and above previous rates of housing delivery, the greater flexibility that would derive from applying the 20% buffer to the shortfall would assist the likelihood of achieving the required supply. Applying a 20% buffer to the Council's shortfall figure (841 dwellings) would add a further 168 dwellings to its five year housing land requirement. This would further increase the above-noted shortfall.

17. The appellant raises a number of concerns about other elements of the Council's stated housing land supply. However, in the light of the shortfall identified above there is no need to consider the relevant sites further in the present appeal. For the above reasons, the Council has failed to demonstrate a robust five year supply of housing in order to satisfy its own assessment of needs. No evidence is before me to suggest that a lower needs assessment figure is justified. Accordingly, I conclude that the Council cannot demonstrate a five year supply of housing against a full objective assessment of housing need as required by paragraph 47 of the Framework. Paragraph 49 of the Framework is therefore engaged: relevant policies for the supply of housing cannot be considered to be up-to-date. In fact, and contrary to the position in its written evidence[18], the Council accepted at the inquiry that CSDMP policies DM4, DM14 and CS16 were out of date and inconsistent with the Framework insofar as they related to the supply of housing[19].

18. As already noted, the Council's assessment of housing needs has been challenged by the appellant. In summary, the appellant considers that an annual figure of 1,740 dpa represents a more accurate assessment of housing needs than the 1,475 dpa suggested by the Council. Given my conclusion above that the Council cannot identify a robust housing supply to meet the lower of these figures, and notwithstanding the efforts that the main parties have made to justify their respective positions, there is little merit in examining these arguments further. As accepted in the Hunston decision[20], an Inspector in the present situation is not in a position to carry out some sort of local plan process as part of determining an appeal, since it is impossible for any rounded assessment similar to a local plan process to be done. The draft 2015 SHMA that is relied on by the Council has yet to be finalised and it has not been possible within the present inquiry for relevant stakeholders to review, or comment upon, either of the competing assessments that are before me. These documents were not put before the DSfCB Inspector, who – given his

[17] Mr Fox's amended proof of evidence, paragraph 8.2.
[18] For example at paragraph 11.27 of Mrs Newcombe's proof of evidence.
[19] Mr Fox in cross-examination.
[20] Paragraph 26.

other concerns – did not reach a final view on objectively assessed housing needs. The matter therefore remains to be considered in another forum.

Character and Appearance

19. It is common ground that the appeal site lies outside the settlement envelope identified for Langford. Notwithstanding the appellant's written evidence[21], its witness conceded at the inquiry that the appeal scheme would conflict with policy DM4 of the CSDMP[22]. Given that the CSDMP was adopted in the context of national planning policies that sought to restrict residential development in the countryside, as summarised in paragraph 11.1.5 of the CSDMP[23], I share this assessment. In dismissing the Henlow appeal (noted above) on its particular merits, the Inspector concerned also considered that the scheme (which lay outside a settlement envelope) involved a conflict with policy DM4.

20. The present appeal site comprises arable farmland. Its southern boundary runs along the back of residential gardens, while its western boundary adjoins back gardens and a stretch of Station Road that is overlooked by housing on its opposite (western) side. The site's northern boundary is formed by a hedge and ditch to the south of Jubilee Lane, a public bridleway that leads to an unmanned level crossing over the East Coast main railway line (ECML). There is some built development on the northern side of Jubilee Lane, extending parallel to approximately half of the site's northern boundary: the remaining land to the north-east of the Jubilee Lane bridleway is open farmland. To the east, the site's boundary runs parallel to the ECML, from which it is separated by a strip of hard-standing. The south-eastern corner of the site is adjoined by housing development: planning permission has recently been given for a further residential scheme between these houses and the railway line.

21. As a result of these factors, the appeal site is enclosed on 2½ sides by built development. While views are available from the site (and from dwellings adjoining the site) towards open countryside to the east and north-east, the presence of the ECML and the site's north-eastern field boundary (although visually porous) provide some degree of enclosure. From within the site, the presence and proximity of housing is easily apparent. As such, the site appears closely associated with the settlement and somewhat isolated from the countryside to the east and north-east – an assessment which is supported by the appellant's Landscape and Visual Impact Assessment (LVIA)[24].

22. The Council – which has not carried out a LVIA in respect of the scheme – accepts that when seen from viewpoints to the east of the ECML (on both Cambridge Road and the bridleway) the scheme's visual effect would be negligible. The Council's concerns therefore relate to views from within, or in close proximity to, the existing settlement.

23. It is accepted that the Council seeks to challenge some of the conclusions of the appellant's LVIA[25]. The fact that its alternative analyses of the magnitude and significance of likely visual impacts are not supported by detailed reasoning (such as would normally be contained in a LVIA) reduces the weight that they can be afforded. It is noted that the Council's own landscape officer raised no

[21] For example, paragraph 13.6.11 of Mr Still's proof of evidence.
[22] Mr Still in cross examination and in response to Inspector's questions.
[23] The paragraph number in the CSDMP itself (document CD9.01) states 11.1.15, but this appears to be an error.
[24] Updated LVIA in Appendix 4 to Mr Jackson's proof of evidence.
[25] Appendix LN/L of Mrs Newcombe's proof of evidence.

objections in principle to the development[26]. Nevertheless, I share the Council's broad view that the appellant underestimates the visual impact of the scheme as it would be perceived from a number of locations – notably at viewpoints 2, 5 and 8[27]. In none of these locations is the present quality of the environment is so poor that the scheme's impact could be considered to be 'beneficial'. While boundary treatments could be improved, the overall sense is of agricultural land adjoining a settlement: this is not a negative feature. Given that, in all three cases, existing views of open countryside would be curtailed, an assessment of 'neutral' would be more appropriate. However, bearing in mind the definition of the relevant terms in the LVIA[28], and noting the landscaping and new planting that is shown on the development framework drawing, I see no reason to differ from the appellant's assessment that – at worst – the visual effects identified for the scheme as a whole would be of 'moderate' significance at year 0, reducing to 'minor' significance at year 15. This would amount to harm in respect of the area's character and appearance, albeit limited in scale.

24. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by (among other matters) protecting and enhancing valued landscapes. It is the Council's view that the appeal site merits protection accordingly. However, with reference to the decision in Stroud DC v SSCLG and Gladman Developments[29], the appeal site, while representing countryside that is clearly valued by local people, does not contain particular physical attributes that would 'take it out of the ordinary'. Indeed, other than pointing to the site's pleasant sense of openness and the presence of views across the site to open countryside, the Council does not identify any such specific attributes or landscape features. It accepts that in terms of CSDMP policy CS16 it falls under the category of a 'site of lesser quality'[30]. For these reasons, the site does not amount to a 'valued' landscape in the Framework's terms.

25. Taking these matters together, I conclude that the appeal scheme would cause limited harm to the area's character and appearance. This would conflict with CSDMP policy DM3, which is not explicitly restricted to detailed design matters as the appellant suggests, and policies CS16 and DM14. As already noted, the scheme conflicts with policy DM4. Notwithstanding the relevant refusal reason, the Council accepted at the inquiry that there was no conflict with the Langford Green Infrastructure Plan[31].

26. Nevertheless, the Council concedes that policies DM4, DM14 and CS16 are out-of-date insofar as they apply to the supply of housing. Furthermore, it is accepted by the Council that in order to meet the level of housing need for Central Bedfordshire that it has identified, it will be necessary for land to be released outside defined settlement envelopes. Indeed, the Council is relying upon some such unallocated sites as part of its five year land supply. This affects the significance of these policy conflicts in the overall planning balance.

[26] Accepted by Mrs Newcombe in cross-examination.
[27] Using the numbering in the annotated visual effects table in Mrs Newcombe's appendix LN/L. In summary, these relate to Jubilee Lane, the bridleway and Station Road.
[28] Paragraph 2.25 of Appendix 4 to Mr Jackson's proof of evidence.
[29] [2015] EWHC 488 (Admin) – document CD8.11.
[30] Paragraph 11.15 of Mrs Newcombe's proof of evidence.
[31] Accepted by Mrs Newcombe in cross-examination.

Conclusions

27. As already noted, relevant policies for the supply of housing in the adopted development plan are out-of-date. Paragraph 14 of the Framework, which sets out the presumption in favour of sustainable development, states that (unless material considerations indicate otherwise) where the development plan is absent, silent or out-of-date planning permission should be granted unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

28. In closing, the Council argued (in summary) that the scheme should not benefit from the presumption in favour of sustainable development as it did not (on the case presented by the Council) amount to sustainable development in the terms of the Framework. However, notwithstanding the comments made in William Davies Ltd and Jelson Ltd v SSCLG and N W Leicestershire District Council[32], subsequent decisions such as Dartford BC v SSCLG and Landhold Capital Ltd[33] do not endorse a formulaic sequential approach to the consideration of whether or not a particular proposal amounts to sustainable development in the terms of the Framework. Given the provisions of the Framework's paragraph 49, it seems to me that it is relevant to apply the paragraph 14 balancing exercise in the present appeal.

29. In the present case, the appeal scheme would provide clear social and economic benefits. As already noted, there is a pressing need for the provision of housing and the Council is unable to demonstrate a five year supply. The Council accepted at the inquiry that there is a significant need for new affordable homes and conceded that it did not know how many would be delivered during the next five years[34]. The appeal scheme proposes the delivery of at least 35% affordable housing. As described above, the Council accepts that Langford is both a sustainable settlement and an appropriate location in principle for new housing development (subject to scale). It is common ground that the appellant's Transport Assessment shows that there would be no capacity issues with relevant junctions and that the proposed access arrangements would be adequate. The Council does not seek to substantively challenge the scheme's economic benefits[35]: while such (or similar) benefits may derive from any other housing development of this size, this does not mean that they should not be considered in the present case.

30. Drawing these matters together, I consider that although limited harm has been identified in respect of the environmental strand, as discussed above, this adverse effect would not be of a scale that is sufficient to significantly and demonstrably outweigh the scheme's clear benefits in the social and economic dimensions. I therefore conclude that the appeal proposal would amount to sustainable development in the terms of the Framework. While I accept that the scheme is the subject of local opposition, I consider that the particular circumstances set out above are sufficient to over-ride the conflicts with relevant development plan policies that are described above.

[32] [2013] EWHC 3058 (Admin) – document CD8.17.
[33] [2014] EWHC 2636 (Admin) – document CD8.13.
[34] Mr Fox and Mrs Dilley respectively in cross-examination.
[35] See Appendix 4 to Mr Still's proof of evidence.

Planning Obligations

31. The appellant has submitted a conditional unilateral undertaking. Most of the obligations that it contains – relating specifically to open space management and to contributions in respect of the middle school, bus stop, outdoor sports and a local bridleway – are not in dispute between the main parties. Bearing in mind the information supplied by both the Council and the appellant[36], and notwithstanding local concerns about infrastructure provision, I am satisfied that these obligations accord with the requirements of CIL Regulation 122. The Council confirmed at the inquiry that the projects concerned had not been in receipt of any other funding from planning obligations.

32. The main parties differ in respect of the payment of a contribution to Network Rail (via the Council) in regard of the level crossing on the Jubilee Lane bridleway. It was confirmed at the inquiry that the Council and Network Rail consider that the sum of £19,000 is required in order to contribute to various improvement works at the crossing, including moving the decking to reduce transit time. The need for such works is disputed by the appellant, which proposes a lower sum (£10,000) towards additional signage. A conditional clause allows either alternative to be provided for in the unilateral undertaking.

33. The appellant has supplied evidence about the crossing's existing usage, as well as Network Rail's assessment of the likely increase in such usage as a result of the appeal scheme. However, the detailed methodology of these assessments is not before me and I feel that both sets of figures should be treated with some caution. Having visited the crossing and noted its relationship to the appeal site, it seems to me very likely that the development would result in a material increase in the crossing's use: pedestrian links are suggested between the site and the Jubilee Lane bridleway, and the level crossing would provide the most convenient link between the site and the open countryside to the east of the railway. I see no reason why greater usage of the crossing would not result in a greater potential for risk. While it is possible that the crossing will be removed altogether in the future, in association with the ECML's upgrading, the timescale for such works has yet to be finalised. Drawing these matters together, it seems to me that the improvements proposed by Network Rail and the Council are justified: as such, the figure of £19,000 accords with the requirements of CIL Regulation 122.

Conditions

34. A list of conditions (agreed with one exception) was tabled at the inquiry. I have considered, and where necessary amended, these in the light of national policy and guidance, as well as the discussion at the inquiry. Otherwise than as set out in this decision and conditions, it is necessary that the development should be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. As noted above, it is common ground that the scheme would accord with the parameters set out in the development framework plan: a condition is required to secure this.

35. The submission, approval and implementation of an open space scheme is necessary in order to ensure that adequate on-site recreational provision is made. Provision for archaeological investigation is needed in line with policy CS15 of the CSDMP. Implementation of the approved access arrangements

[36] See statement by appellant (document 6) and comments from consultees at the planning application stage.

(which include visibility splays) is needed for highway safety reasons. Submission, approval and implementation of a construction method statement are needed in order to safeguard the living conditions of nearby residents. A condition is required to secure the provision of affordable housing in line with national and local policy.

36. In the light of the Phase I report, a condition is required to address potential land contamination. Submission, approval and implementation of a surface water drainage scheme and Travel Plan are needed in order to respectively ensure adequate drainage provision and to encourage the use of transport modes other than the private car. Provision of waste receptacles is required in line with local policies. Submission, approval and implementation of a method statement for the protection of Great Crested Newts are necessary in view of the appellant's ecological assessment.

37. Given the site's relationship to the ECML, it is common ground that a condition is required to secure adequate noise mitigation. However, the main parties disagree about which night-time L_{Amax} value should be applied. I have read the appellant's arguments[37] and the 2009 WHO Night Noise Guidelines for Europe (which both parties reference) carefully. The latter document identifies adverse effects in respect of the 42 dB L_{Amax} threshold[38]: these effects do not seem to be confined to aircraft-related noise, although this has a higher potential to cause sleep disturbance. Nevertheless, sporadic noise events (such as the passing of trains) have a particular character and impact, especially in respect of awakenings. Clearly, there is some uncertainty in the setting of detailed thresholds for different noise sources. However, the 2009 WHO document provides little explicit support for adopting the 45 dB L_{Amax} figure proposed by the appellant. BS 8233:2014 does set specific values for regular individual noise events such as the passing of trains. I note that the Council has applied the 42 dB L_{Amax} figure in respect of the housing that has recently been granted planning permission to the south east of the site[39]. In the circumstances, the evidence before me suggests no compelling reason to take a different view in respect of the present proposal.

Overall Conclusion

38. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

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 three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

[37] Document 15.
[38] Table 5.1 of the 2009 WHO Night Noise Guidelines document.
[39] Document CD9.17.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: nos. LP01, 4746/07/01.

5) The submission of reserved matters and the implementation of the development hereby permitted shall be carried out in accordance with the parameters set out in Development Framework Plan no. 5540-L-02 rev J.

6) Development shall not commence until an open space scheme has been submitted to and approved in writing by the local planning authority. The scheme shall show all areas of open space to be provided within the site including public open space and two equipped children's play areas and shall also include details of the location, layout, size, time of provision and specification of play equipment, boundary structures and materials. The scheme shall be put in place in accordance with the approved details.

7) Development shall not commence until a scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.

8) Development shall not commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future national policy that replaces it. The scheme shall include:
   - the numbers, type, tenure and location on the site of the affordable housing which shall consist of not less than 35% of the housing units with a tenure split of 63% affordable rented and 37% intermediate housing;
   - the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
   - the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing is no registered social landlord is involved;
   - the arrangements that ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
   - the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

9) Development shall not commence until a construction method statement has been submitted to and approved in writing by the local planning authority. All works shall be undertaken in accordance with the approved details. The approved statement shall include:
   - the hours of construction work and deliveries;
   - parking of vehicles for site operatives and visitors;
   - loading and unloading of plant and materials;
   - storage of plant and materials used in constructing the development;
   - wheel washing facilities;
   - details of the responsible person who can be contacted in the event of a complaint;
   - mitigation measures in respect of noise and disturbance during construction including piling techniques, vibration and noise limits,

prior notification to the occupiers of potentially affected properties, monitoring technology, screening, a detailed specification of plant and equipment to be used, and construction traffic routes; and

- a scheme to minimise and monitor the emission of dust and dirt during construction and to prevent the burning of materials on site.

10) Development shall not commence until a Phase II investigation of potential contamination is carried out and its results submitted to and approved in writing by the local planning authority. If the Phase II investigation indicates that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the local planning authority. Remediation work shall then be carried out in accordance with the approved scheme. If remediation is required a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling hereby permitted.

11) Development shall not commence until a surface water drainage scheme, including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. Development shall accord with the approved details.

12) Development shall not commence until a scheme for protecting the dwellings hereby permitted from noise from the East Coast main railway line has been submitted to and approved in writing by the local planning authority. The scheme shall include the details of any noise barrier, building insulation and alternative ventilation arrangements for the dwellings concerned. The scheme shall ensure that the internal noise levels from rail traffic shall not exceed 35 dB L_{Aeq}, 0700-2300 in any habitable room or 30 dB L_{Aeq} 2300-0700 and 42 dB L_{Amax} 2300-0700 inside any bedroom and that noise levels from rail traffic in any amenity area shall not exceed 55 dB L_{Aeq} (1 hour) within the first 5 metres from the building façade to which the amenity area relates. No dwelling shall be occupied until the works to protect the dwelling concerned have been completed in accordance with the approved details.

13) Development shall not commence until a method statement for the protection of Great Crested Newts has been submitted to and approved in writing by the local planning authority. Development shall accord with the approved details.

14) No dwelling hereby permitted shall be occupied until the access arrangements have been constructed in accordance with approved drawing no. 4746/07/01.

15) No dwelling hereby permitted shall be occupied until a Travel Plan, which shall include a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented in accordance with the approved details.

16) No dwelling hereby permitted shall be occupied until a scheme for the provision of waste receptacles has been submitted to and agreed in writing by the local planning authority. The receptacles shall be provided before occupation takes place.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alexander Booth	of Counsel Instructed by Mr Andrew Emerton, Solicitor, Central Bedfordshire Council
He called:	
Mr Richard Fox BA(Hons) MCD DMS MRTPI	Central Bedfordshire Council
Mr Jonathan Lee BSc(Hons)	Opinion Research Services (ORS)
Mrs Nicola Dilley BA(Hons) MA MRTPI	Central Bedfordshire Council
Mrs Louise Newcombe BA(Hons) MA MRTPI	Central Bedfordshire Council

FOR THE APPELLANT:

Mr Giles Cannock	of Counsel Instructed by Mr Christopher Still, Gladman Developments Ltd
He called:	
Mr Tom Baker BSc MSc	GVA
Mr Richard Lomas BSc(Hons) DipTP MRTPI	Hourigan Connolly
Mr Timothy Jackson BA(Hons) DipLA CMLI	fpcr
Mr Christopher Philip Still BSc(Hons) MRICS	Gladman Developments Ltd

INTERESTED PERSON:

Mr A Fisher	Langford Parish Council

List of Documents tabled at the Inquiry

Document 1: Opening statement on behalf of the appellant.
Document 2: Opening statement on behalf of Central Bedfordshire Council (CBC).
Document 3: Agreed Statement of Common Ground.
Document 4: Draft unilateral undertaking.
Document 5: Final (signed) unilateral undertaking.
Document 6: Appellant's note concerning contributions.
Document 7: Appellant's note concerning school accessibility.
Document 8: Luton and Central Bedfordshire Strategic Housing Market Assessment (SHMA) Update (draft 1 May 2015).
Document 9: E-mail from CBC concerning draft SHMA update.
Document 10: Graph showing comparative population trends.
Document 11: Updated version of table on page 16 of Mr Lee's proof of evidence.
Document 12: Table listing key outstanding differences between CBC and appellant on housing land supply information.
Document 13: Appellant's note concerning updated position on site HT057.
Document 14: List of draft conditions.
Document 15: Appellant's note concerning noise condition.
Document 16: Closing submissions on behalf of CBC.
Document 17: Closing submissions on behalf of appellant.

M J Hetherington

INSPECTOR