



Appeal Decision

Inquiry held on 30 June 2015

Site visit made on 1 July 2015

by Frances Mahoney DipTP MRTPI IHBC

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

Decision date: 2 September 2015

Appeal Ref: APP/P0240/A/14/2228671

Land off Campton Road, Shefford, 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 Catesby Estates Ltd (Mr David Morris) against the decision of Central Bedfordshire Council.
 - The application Ref CB/14/01726/OUT, dated 2 May 2014, was refused by notice dated 24 October 2014.
 - The development proposed is an outline planning permission (with all matters reserved except for means of site access from Campton Road) for the erection of up to 140 dwellings; provision of new integral access roads and footpaths; public open space and landscaping, earthworks, surface water attenuation, associated infrastructure, and playing fields and youth facility. The development involves the demolition of existing structures.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 140 dwellings; provision of new integral access roads and footpaths; public open space and landscaping, earthworks, surface water attenuation, associated infrastructure, playing fields, youth facility and the demolition of existing structures at Land off Campton Road, Shefford, Bedfordshire in accordance with the terms of the application, Ref CB/14/01726/OUT, dated 2 May 2014, subject to the conditions set out Annex A to this decision.

Preliminary matters

2. The Inquiry sat on 30 June and 1 July 2015. The appeal related to an outline application with all matters other than access reserved for future consideration. Along with the site location plan (dwg no LC/001B-red line plan), the application was accompanied, amongst other informative plans, by an Illustrative Masterplan (AR/001G). This shows the location of the proposed main access onto Campton Road with a re-modelling of the junction with Amphill Road. Proposed access arrangements are also shown in more detail on dwg no 15260-10. In both cases the location of the access point remains constant. I have considered the appeal on this basis, particularly taking into account that conditions requiring the submission of further details regarding layout and construction of the access would be required, were the appeal to succeed.

3. Following the submission of the planning application in May 2014, a youth facility¹ was added to the proposal. The description of development was amended accordingly². I have used this amended description as it more accurately reflects the extent of the proposed development and its composite elements.
4. Following the refusal of planning permission, the appellant company also made some amendments to the illustrative masterplan and parameters plan which centred on the increase in the size of the piece of land to be gifted to the Council for the use by Shefford Lower School³. Extensive consultation was subsequently carried out by the Council, with any resultant comments being copied to me. Taking into account the illustrative nature of the amended plans, the extent of the consultation carried out, and that the amendments were to increase the size of an area of land already proffered for school expansion, I am satisfied that the consultation was wide enough to engage with those parties affected. On that basis, I consider that those who should have been consulted have had the opportunity to consider the changed development, and that the interests of those third parties are not prejudiced by the proposed amendments.
5. Prior to the opening of the Inquiry, the Council indicated that they did not intend to defend the three reasons for refusal set out on the notice of refusal of planning permission (CB/14/01726/OUT) dated 24 October 2014⁴. In addition, notwithstanding that proofs of evidence had been submitted for four witnesses, the Council would no longer rely on that evidence, withdrawing it for consideration by the Inquiry. Further, they did not require the appellant company's witnesses to attend the Inquiry for the purposes of cross-examination. The Council's reasoning for the withdrawal of its evidence was on the following grounds⁵:
 - a satisfactory sealed Unilateral Undertaking (UU) has been provided dealing with;
 - the provision of affordable housing;
 - the provision of youth facility site;
 - highway improvements;
 - commuted sums for improvements to footpaths, tree belt management, provision of a new bridge, picnic benches and interpretation boards; and
 - commuted sum towards school expansion (lower and middle school).

I shall return later to the provisions secured by the UUs, which are material considerations in this case.

¹ Skate park or multi-use games area.

² With the agreement of the then applicant company.

³ This, along with the financial contribution towards the expansion of the Lower School secured by means of the terms of the Unilateral Undertaking Inquiry Doc 4, is a matter which I shall return to later in the decision in relation to whether such provision is necessary and justified to mitigate the effects of the appeal proposal.

⁴ Letter from the Council dated 12 June 2015 – Inquiry Doc 2 Addendum to Statement of Common Ground Document 1.

⁵ Council's position statement as to reasons for refusal – Inquiry Doc 7.

- the Council and the appellant company had been negotiating in respect of school capacity. The proffered commuted sums, along with the making over of part of the appeal site to the Council for the physical expansion of Shefford Lower School, to accommodate the growth in pupil numbers generated by the proposed development;
- the Council can no longer demonstrate a five year supply of housing land;
- the Council's policies for the supply of housing land are consequently out of date⁶;
- the presumption in favour of sustainable development applies⁷;
- in light of the changed position on housing land supply and the appeal evidence of the appellant company in respect of character and visual impact, the Council has undertaken a further balancing exercise. The Council's position is now that the degree of harm that would result from the appeal proposal would not be such as to significantly and demonstrably outweigh the benefits of the proposal.

Main issues

6. Notwithstanding the change in the Council's position to the proposed development, third parties did maintain their opposition to the proposal and so the main issues in this case are:
- the effect of the proposal on the character and appearance of the area, having regard to national and local planning policy on the location and provision of new housing;
 - whether the proposal would appropriately contribute to the provision of infrastructure requirements directly related to the proposed development, including affordable housing and education;
 - and, in light of the above, whether the appeal proposal constitutes a sustainable development.

Planning Policy/Housing Land Supply

7. The development plan includes the saved policies of Mid Bedfordshire Local Plan, First Review (2005), the Central Bedfordshire Core Strategy and Development Management Policies (2009) (CS) and the Central Bedfordshire (North) Site Allocations Development Plan Document (2011). All of these documents pre-date the Framework⁸. Therefore, paragraph 215 of the Framework is engaged, setting out that the weight to be given to relevant policies, in such existing plans, depends on their degree of consistency with those within the Framework.

⁶ Paragraph 49 of the National Planning Policy Framework (the Framework).

⁷ Paragraph 14 of the Framework.

⁸ In 2005 Shefford Town Council produced the Shefford Town Plan (Inquiry Doc 12). The Town Plan, whilst promoting the provision of the right balance of housing that is affordable, accessible and well-designed, sufficient to meet the changing needs of people in the Town both now and into the future, does not indicate by how much and where the Town is to grow. It is not clear as to the extent, if any, of public consultation carried out in respect of the latest document⁸. It has not been subject to examination and the Town Council confirmed they are presently not undertaking any work in respect of a Neighbourhood Plan⁸. It was common ground between the parties, including the Town Council that the document did not form part of the development plan. I have no reason to question this assessment.

8. Paragraph 47 of the Framework seeks to boost significantly the supply of housing. It identifies that Councils should ensure that their local plans meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of either 5% or 20% (moved onward from later in the plan period), to ensure choice and competition in the market for land⁹.
9. Following the Council's decision not to defend their reasons for refusal and to withdraw all of their submitted evidence, it was common ground at the Inquiry that the Council was unable to demonstrate the provision of five years worth of deliverable housing land, measured against their housing requirements¹⁰.
10. The appellant company has undertaken a detailed analysis of every site that the Council has included in its five year supply. With reference to the Council's own Annual Monitoring Reports the identified supply has been found to be wanting, the evidence lacking the robustness to demonstrate that such sites and sources of supply would deliver new homes in the next five years.
11. On the calculation of the appellant company the Council can only demonstrate a 2.3 year supply. As already identified, the Council did not offer any evidence to dispute the calculated five year supply of the appellant company, nor did they offer any evidence of what they considered their position to be in this regard. They merely promoted the position that they did not accept the appellant company's assessment of housing need, or its assessment of housing supply, as being accurate. However, they were not in a position to offer any other reasoned calculation, having withdrawn all of their evidence and in light of the outcome of Appeal APP/P0240/A/14/2228154¹¹ the Council could not say with confidence what their five year land supply may be.
12. The Council is currently engaged in the production of the Central Bedfordshire Development Strategy. Initial examination hearings were undertaken in February 2015. The Examining Inspector then set out interim concerns in relation to compliance with the Duty to Co-operate, suggesting the Plan should be withdrawn or await the final report. The Council has challenged the Examining Inspector's findings. With the current date for the adoption of the Development Strategy having passed (July 2015¹²), slippage in the timetable for the provision of the suite of emerging development plan documents is a reality. Therefore, I agree with the parties¹³ that only limited weight can be afforded to the emerging Development Strategy in accordance with the approach of paragraph 216 of the Framework. The Council confirmed that, in these circumstances they were relying on the CS as the policy foundation in this case.

⁹ The application of the 'Sedgefield Method' to addressing past under-delivery is agreed as being appropriate within the Statement of Common Ground (paragraph 6.17) and further that a 20% buffer should be added to the five year requirement given previous persistent under delivery (paragraph 6.18).

¹⁰ The Council acknowledged the conclusions of Inspector Hetherington in appeal decision APP/P0240/A/14/2228154-Inquiry Doc 5 as do I.

¹¹ Inquiry Doc 5.

¹² Source A plan-making programme for Central Bedfordshire 2015 – Inquiry Doc 9.

¹³ Paragraph 5.11 of the Statement of Common Ground – Inquiry Doc 1.

13. The appeal site lies outside the settlement envelope for Shefford¹⁴. The specified settlement boundary would have been fixed having regard to the need to accommodate development planned up to 2026. The appeal site was not allocated for development within the Site Allocations DPD (2011)¹⁵.
14. CS Policy DM4 deals with development within settlement envelopes, although it does acknowledge that where no land is available within the settlement, a site adjacent to the settlement may be granted planning permission. Nonetheless, the fixed settlement envelopes would have the effect of constraining development, including housing, within these settlements.
15. CS Policy CS16 recognises the countryside outside settlements as being a highly valued resource and should be protected for its own sake, safeguarding it from the increasing pressures of development. Policy DM14 goes on to identify that any development that has an unacceptable impact on landscape quality will be resisted. Their overall objective is to protect the character and amenity of the countryside.
16. However, whilst this overall policy approach does reflect the spirit of one of the core planning principles of the Framework, namely that of recognising the intrinsic character and beauty of the countryside¹⁶, it is inextricably linked with the constraining effect of the settlement boundaries on the housing requirement. Therefore, I consider CS Policies DM4, DM16 and CS16 are relevant policies for the supply of housing within the meaning of paragraph 49 of the Framework and I shall appraise the weight to be afforded to them accordingly.

Reasons

The appeal site/proposal

17. The appeal site is some 8 hectares of open, green field, agricultural, overgrown, pasture land. It lies on the south western periphery of Shefford, adjoining the urban edge of the Town and the school premises of both Shefford Lower School and Robert Bloomfield Academy (Middle School). Shefford is by-passed by the busy main A507 which bounds the appeal site to the south. Shefford is a pleasant town characterised mainly by its residential nature, although business and employment opportunities are offered through the Shefford Industrial Park. The Town has a range of services and facilities including a supermarket, library, doctor's surgery, dentist and post office, mainly within walking distance of the appeal site. It also has public transport links to local settlements and urban areas and there is a bus stop on the main Ampthill Road close-by to the appeal site. It is common ground between the parties that the village is a sustainable location for future housing provision¹⁷.
18. As already set out the appeal proposal is in outline with only access to be considered. However, the illustrative masterplan shows a potential layout of the proposed 140 dwellings, including land to be transferred to the Council for the expansion of Shefford Lower School, playing fields adjacent to the Robert Bloomfield Academy, area of open space to include a youth facility, and an area along the southern boundary to accommodate an acoustic barrier/noise bund.

¹⁴ Will be treated as open countryside.

¹⁵ Paragraph 5.7 of the Statement of Common Ground-Inquiry Doc 1.

¹⁶ Paragraph 17, bullet point 5 of the Framework.

¹⁷ Inquiry Doc 2 – Statement of Common Ground-Addendum paragraph 2.2.

The existing line of substantial mature trees along part of the common boundary with the Robert Bloomfield Academy site would be maintained. This illustrative masterplan shows how the proposed development might be accommodated. Both the Council and the appellant company have considered the proposal on this basis and I similarly have taken it as informing my consideration of the development.

Housing need

19. The Council accept that the housing requirement within the CS is out of date and that they do not have a five year supply of housing land¹⁸. Whilst a lack of a five year supply of deliverable housing land does not provide an automatic 'green light' to planning permission, a balance must be struck.
20. The Council accept the shortfall is significant and that the weight to be attributed to that shortfall should be substantial.
21. The shortfall must also be considered in the context of a response to the need for affordable housing which is an integral part of the Council's housing strategy. Since 2008/09 a significant backlog of at least 1,723 affordable dwellings has arisen in the District exacerbated by low levels of delivery and loss of stock through Right to Buy. The 2014 Strategic Housing Market Assessment Refresh identifies a need for 430 net additional affordable dwellings per annum between 2014 and 2019. There is an acute estimated level of need in the District, with past completion levels representing a serious under-provision, a deficiency to which substantial weight should be ascribed. The appeal proposal includes a 35% affordable housing element secured by means of the terms of the UU which would represent a benefit to be accorded substantial weight.
22. Even taking into account the admission of the Council in respect of their negative position on housing land supply and their lack of rebuttal to the evidence of the appellant company in this regard, I do not intend to pronounce on the definitive nature of the appellant company's conclusion on the level of unmet housing need in the District. Suffice to say that in these circumstances, it is reasonable to conclude that the appeal proposal would contribute significantly to the unmet housing need within the District and this should weigh positively and heavily in the balance of the overall decision.
23. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up to date if a five year supply cannot be demonstrated, as in this case. This has consequences for the reliance that can be placed on those policies in reaching a decision on these appeals. The Framework has, at its heart, a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision taking. Framework paragraph 14 confirms that for decision taking, where the relevant policies of the development plan are out of date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, taken as a whole or specific policies in the Framework indicate development should be restricted. It is necessary then to consider whether the impacts arising from granting planning permission are adverse and whether they would significantly and demonstrably outweigh the

¹⁸ See Inquiry Doc 7 Council's position statement as to reasons for refusal - Paragraph 4.

benefits of that permission. This is a further consideration to be weighed into the balance of my decision.

Impact - Character and appearance

24. The appeal site has a green open character rooted in its previous agricultural use. Whilst it adjoins residential development in School Lane and, to a lesser extent, Ampthill Road and Campton Road, both in character and appearance terms, the appeal site is more closely akin to the open spaces of the school grounds, the cemetery, the river side of the River Hit and the wider countryside landscape beyond the Town. As an undeveloped piece of land on the edge of the Town it establishes the verdant nature and open setting of the settlement and serves as a transition between the built up area of Shefford and the wider open countryside beyond. From Campton Road/Greenway, on either side of the underpass, the visual role and character of the appeal site is obvious, particularly taking into account the limited extent of the residential development which is visible sitting at a high point, with the appeal site gently sloping away to the south.
25. The main A507, which, in part, runs through an embankment, does physically dissect the appeal site from the open countryside. The roadway in itself does not diminish the visual linkage of the appeal site with the wider countryside setting. However, the passing stream of vehicles and hum of the traffic using this busy road does distract the eye and introduces a dominant urban feature into the green setting of the Town. This factor would limit the harm resulting from the proposed development on the character and appearance of the countryside.
26. The proposed masterplan shows that the scheme could retain, manage and enhance existing boundary vegetation, as well as introducing open spaces and green corridors to create visual buffers. The possible introduction of a bund along the southern boundary, the purpose of which would be to address traffic noise issues if it were thought necessary, would also allow for the establishment of a landscape belt. The setting out of the grass playing pitches and habitat area close to the River Hit would also enhance the existing green infrastructure of this edge of Town location.
27. Nonetheless, overall the appeal proposal would reduce the amount of greenfield countryside. It would also erode the open nature of the Town's rural setting. Both of these factors are relevant to any assessment of the environmental role of sustainable development, namely to protect the natural environment, addressed later in this decision.
28. The appellant company accepts that the proposed development would change the character of the appeal site and its immediate surroundings and would result in some harm¹⁹. Whilst accepting that such an impact is an inevitable consequence of development on a previously undeveloped site, in weighing all of the factors together in relation to the impact of the proposal on the character and appearance of the countryside, I find its open nature would be eroded causing material harm to its green, rural character and appearance. This would be contrary to the identified objectives of CS Policies DM3, DM4, CS16 and DM14 in so far as they relate to the protection of the countryside. In this way the intrinsic character and beauty of the countryside would not be

¹⁹ Lishman proof paragraph 6.1.4.

protected, which, as a planning principle identified within the Framework²⁰, carries considerable weight.

Contribution to the achievement of sustainable development

29. There are three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependant.

Economic role

30. The proposal would enhance/contribute to the economic role by the creation of jobs associated with the construction stage. New residents are also likely to support existing local services and businesses, with a possible increase in local jobs as a result.
31. In addition, the new dwellings would offer homes to residents who would contribute to the labour supply, some of whom would be likely to be local.
32. There is a good prospect that the proposed housing could be delivered on the site within five years²¹. In addition, future Council tax payments and New Homes Bonus would be spent in the area.
33. *Education* – The proposed development of up to 140 dwellings would generate demand for places at both the Shefford Lower School and the Robert Bloomfield Academy. In both cases a financial contribution has been formulated using the Department of Education cost multiplier. In the circumstances of each school, where places are in demand, this response to mitigation is necessary and justified in accordance with Regulations 122 & 123 (3) of the Community Infrastructure Levy Regulations 2010 (CIL). Whilst the required contributions are to mitigate the impacts of the proposed new development, they would also enhance the resources of the schools to the wider benefit of the community.
34. The Shefford Lower School, being built on a restricted site, has a problem that it is not possible to extend the school further to accommodate new school places. The appellant company's response has been to offer the gift of land adjacent to the school to allow for such expansion. This is a reasonable and measured response to the predicament in which the school finds itself. As the expansion would be to provide the space for the school places required for the new development, this offer, in addition to the funds already identified, is justified and is secured through the terms of the UU.
35. *Best and Most Versatile Land (BMVL)* - Paragraph 112 of the Framework identifies that the economic and other benefits of the BMVL should be taken into account. Significant development of agricultural land, where demonstrated to be necessary, should utilise areas of poorer quality land in preference to that of a higher quality.

²⁰ Paragraph 17 of the Framework sets out that planning, as a core principle, should, as part of the need to take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside.

²¹ Whilst the appellant company is not a developer they have considerable experience in marketing such sites. It is of the size that would appeal to a single developer and they anticipate considerable market interest from house builders were permission to be granted. They have a promotion agreement on the land and would market it with outline planning permission. They have financial exposure in respect of the costs of gaining planning permission and therefore need to sell the site to recover their investment as a matter of some urgency.

36. The appeal site is predominantly Grade 3a and better agricultural land. Therefore, the land is BMVL and the resultant loss of BMVL is a matter that weighs against the scheme. The Council did indicate that, in meeting their housing need, it is likely that greenfield sites, including agricultural land²², will have to be developed. In the case of Shefford the land quality at the appeal site is likely to be typical of agricultural land around Shefford and in the wider area. Consequently, the development of BMVL would be almost inevitable due to its location within an area of high quality agricultural land.
37. The loss of the BMVL would, at worst, be modest, taking into account the general quality of agricultural land across the District²³. Nonetheless, it would be a disbenefit of the proposal, although in these circumstances I would afford it only limited weight.
38. However, in combination the identified positive contributions/benefits to fulfilling the economic role when weighed against the limited disbenefit of developing BMVL, in my judgement, still produces a positive outcome to which I ascribe considerable weight in the assessment of sustainability.

Social role

39. The proposed housing would fulfil a social role by contributing to the support, strengthening, health and vibrancy of the local community by providing towards a supply of housing to meet the needs of present and future generations. This would include much needed affordable housing²⁴.
40. The proposal would also be likely to provide a mix of housing which would meet the social needs of the population of the District and in particular that of Shefford.
41. The development proposal includes a new youth facility comprising a skate park or multi use games area on the appeal site. The Town Council confirmed this would meet a long recognised need within the Town²⁵.
42. The development also includes the enhancement of the existing public footpaths in the vicinity of the appeal site. These would serve to maintain access for recreational purposes promoting the wellbeing of the local population.
43. Those new residents to the Town would also have the potential to add to the vibrancy of the Town by introducing new energy and enthusiasm. They could expand participation in local events and have the potential to introduce new skills and interests, as well as engagement with local governance.
44. These elements would enhance local facilities and support the well-being of the local community and warrant a positive weighting of substance.

²² Some of which may be BMVL.

²³ 80.9% of the District is Grade 3 and above agricultural land, therefore BMVL. The fact the appeal site may not be in active agricultural use is a factor which has not influenced my weighing of this aspect of the proposal as this is the choice of the landowner and does not remove the potential for productive agricultural use in the future.

²⁴ Secured and justified under the terms of the UU – Inquiry Docs 3 & 4.

²⁵ The provision and maintenance of the youth facility would be secured under the terms of the UU and is fairly and reasonably related in scale and kind to the development.

Environmental role

45. *Location* – Shefford is identified as a town suitable to accommodate new housing development²⁶ in CS Policy CS1. The range of facilities and services in and around the Town, along with ready access to public transport²⁷ are factors which have almost certainly influenced the classification of the Town as a Minor Service Centre. Although the appeal site lies on the edge of the settlement, it is within walking distance of many of these facilities. Therefore, in respect of location and a movement to a low carbon economy, the sustainability of the appeal site is positive.
46. *Highways* - Concern has been expressed by residents in relation to the impact of traffic generated by the proposed development on the existing highway network, particularly at the roundabout at the junction of Ampthill Road and A507. However, the submitted Transport Assessment details the traffic generation and distribution and confirms the access and surrounding highway network has sufficient capacity to accommodate the traffic movements from the development. This assessment was not challenged by substantive evidence to the contrary. The highway authority²⁸ was also satisfied that the existing road capacity is sufficient to accommodate the additional flow from the new development. Based on the evidence of the Transport Assessment, including the proposed re-modelling of the access junction, I have no reason to question the expert evidence in this case²⁹.
47. The appeal proposal also includes a vehicular access from the proposed development into the grounds of the Robert Bloomfield Academy which would allow for the building of a new car park/drop off point, pedestrian access to serve both schools and improve access to the facilities by the community³⁰. This would offer an alternative access to the school sites, taking traffic away from the congested areas of School Lane and Bloomfield Drive and encouraging less car dependency by improving pedestrian access from the areas of the Town served by the schools.
48. *Living conditions of nearby residents* - The proposed site is sufficiently distant to neighbouring dwellings so as to minimise any material harm to the outlook or privacy of existing residents. The illustrative masterplan gives me confidence that a layout can be produced as part of any reserved matters application which would appropriately accommodate a new housing environment juxtaposed with that existing. The enhancement of existing boundary hedgerows and trees would also serve to soften the impact of the new dwellings.
49. There was also concern from residents, living opposite the proposed remodelled access junction onto Ampthill Road, in relation to headlight intrusion. However, in response the appellant company has relocated the alignment of the site access road to overcome any direct line into neighbouring dwellings³¹. This would satisfactorily overcome any concerns in this regard.

²⁶ Where such development would help deliver new community infrastructure and facilities that benefit the sustainability of the town.

²⁷ Bus service.

²⁸ Central Bedfordshire Council as a unitary authority is also the highway authority in this instance.

²⁹ A contribution in the UU for the cost of a traffic regulation order along with the delivery of highway improvements are necessary and justified as part of the highway works mitigating the effects of the proposal (Regulations 122 & 123 (3) CIL Regulations 2010 compliant) – Inquiry Docs 3 & 4.

³⁰ These works would be funded by the schools.

³¹ Transport Review Inquiry Doc 6.

50. *Flooding/Sewer capacity* – The developable area of the appeal site lies outside of a flood risk area³². On-site drainage proposals would ensure surface water run-off would be diverted towards on-site gullies and drainage channels and that on-site attenuation would be sized appropriately³³. The Town Council were anxious that the proposed development would result in pressure on a Victorian sewer system which already results in individual problems elsewhere in the Town. However, Anglian Water has confirmed that the proposed development is within the catchment of the Clifton Sewage Treatment Works, which has capacity to treat flows from the proposal³⁴. Other than anecdotal evidence of drainage blockages in Clifton Road, no other evidence was provided to refute the statement of the service provider. Therefore, this factor does not weigh negatively in an assessment of the environmental role of the development.
51. *Open space* – The proposal also includes the provision of on-site open space, including a youth facility as well as enhancing the existing hedgerows and trees and up-grading and enhancing the footpaths and habitat close to the River Hit. The long term management of these areas would improve the biodiversity of the location as well as offering opportunities for recreation and improvements in individual's well-being³⁵. These factors positively contribute to the overall sustainability of the appeal site, with some provision within the UU being made for their management³⁶.
52. However, the description of development includes the provision of playing fields on land adjoining the Robert Bloomfield Academy. It is intended these would be grass pitches to provide space for football, hockey and possibly tennis. It would be made available to children in the wider area for use over and above the use by those attending Robert Bloomfield Academy. The provision of these pitches fits with the Council's Recreation Strategy as well as the long term plan of the Academy for expansion.
53. Nonetheless, the provision of the playing fields appears to be part of a mutual agreement³⁷, but this has not been shown to be necessary or justified to mitigate the effects of the new development in accordance with Regulation 122 of the CIL Regulations³⁸. In addition, at present, there is not a completed effective mechanism to secure their provision or their long term management³⁹. Whilst the Council is supportive of the provision of the playing fields, it did concede at the Inquiry that the playing fields were not required as mitigating measures. Consequently, they can only be ascribed very limited weight in the assessment of the environmental role.
54. That said, the above positive factors in the balance of the environmental role do undeniably contribute to the overall sustainability of the appeal site. This is

³² Flood Risk Assessment paragraph 3.8 - CD Doc A.6

³³ These matters could be secured by means of a planning condition.

³⁴ Flood Risk Assessment paragraph 6.6 - CD Doc A.6

³⁵ These factors cross-over with the Social Role and have been accordingly weighed into both aspects as positive benefits.

³⁶ They are also justified to mitigate the effects of the new development in accordance with Regulation 122 of the CIL Regulations 2010. The Council has also confirmed that the obligations are compliant with the requirements of Regulation 123(3) of the CIL Regulations 2010 – Inquiry Docs 3 & 4.

³⁷ Between the Robert Bloomfield Academy and the appellant company.

³⁸ I have taken into account that a contribution has been identified and justified in respect of the mitigation required for the proposed development in respect of the provision of additional school places at the Academy.

³⁹ Following the close of the Inquiry the appellant company confirmed that a draft agreement was in circulation between the relevant parties to secure the transfer of the playing fields and their on-going maintenance (Inquiry Doc 16). However, in light of my conclusion at paragraph 53, the future completion of the draft agreement does not alter the weight I have ascribed to the proffered playing field provision.

tempered with the identified harm to the character and appearance of the countryside. These factors will be weighed into the balance of the overall sustainability of the development taking into account its performance in respect of the other roles.

Overall conclusion on sustainability

55. Sustainable development is about change for the better. The appeal proposal would assist in the provision of much needed housing⁴⁰ in the local area; the District; as well as nationally. It would also have a social and economic role to play in achieving positive growth now and into the future. Its environmental role would be less weighty, due to the impact of the proposal on the character and appearance of the countryside. Nonetheless, when the three dimensions to sustainable development are weighed together, as well as the other relevant elements of the Framework, I find on balance the outcome to be a positive one, whereby the appeal proposal can be considered to be sustainable development and I give this considerable weight in the overall balance of this decision.

Conclusion and balance

56. In this case the development plan is out of date. The proposed development has been shown to be sustainable development. Therefore, paragraph 14 of the Framework is engaged. There would be few adverse impacts in allowing the appeal and granting planning permission. Such impacts are not of such weight as would significantly and demonstrably outweigh the benefits of the scheme. In particular, the contribution of the development of the appeal site to the identified housing need in the District, in circumstances where a five year housing land supply cannot be identified is a persuasive and weighty factor in the consideration of this appeal. In combination with the other positive facets of the development, it is concluded that the presumption in favour of sustainable development applies and planning permission should be granted.

Conditions

57. A list of potential conditions was discussed at the Inquiry and, as result, a number were deleted with the agreement of the parties. I have amended and amalgamated a number for clarity, elimination of duplication, and taking into account guidance in this regard.
58. Only conditions which are formally required to be discharged prior to works commencing on site have been promoted as pre-commencement conditions. These are imposed as they involve details to be approved for the arrangements of the work on site (Environmental Management Plan), groundworks and infrastructure approval (archaeology, noise mitigation (possible bund), landscaping –tree protection, and drainage) or matters that affect the layout and position of development (levels details). These details are required to be submitted and approved by the Local Planning Authority prior to commencement of development.
59. In summary, standard conditions are required on the approval of the reserved matters and on the commencement of development. Confirmation of the approved plans is needed to define the site. Further conditions are required to

⁴⁰ Including affordable housing.

ensure that the submission of reserved matters and later details comply with the considerations taken into account in the approval of the outline permission. The condition identifying the approved plans is reasonable and necessary for the avoidance of doubt and in the interests of proper planning.

60. In order to achieve the permitted distribution of residential development a condition restricting the use of the parcel of land adjacent to the River Hit is required.
61. The locality has been identified as having some possible archaeological interest. Therefore, a condition requiring a programme of investigation is justified.
62. The condition relating to the Construction Management/Method Plan and Statement is required in order to protect the amenities of nearby residents and general amenity.
63. Taking into account the topography of the appeal site it is necessary to include a condition to secure details of the existing and proposed ground/slab/ridge levels.
64. A condition relating to the implementation of the Travel Plan, the provision, improvement of the new/existing footpath/cycleway routes associated with the scheme is necessary to provide sustainable transport objectives giving people a real choice about how they travel.
65. Conditions relating to foul and surface water drainage are also deemed necessary to ensure adequate arrangements are in place to respond to local concerns, particularly in relation to flooding and in the interests of environmental impact.
66. A condition relating to mitigation for the loss of scrub habitat, protection of reptiles and terrestrial amphibian habitat is required in the interest of biodiversity. A pre-commencement condition is justified to mitigate impacts during the construction phase.
67. A condition relating to noise mitigation measures is also imposed to protect the amenity of future occupiers of the proposed dwellings. For the same reason a condition relating to the provision of waste receptacles is imposed.
68. A condition relating to the control of the hard and soft landscaping is reasonable and necessary to protect and enhance the character and appearance of the area; the living conditions of neighbouring residents; and in the interests of biodiversity. A condition requiring a scheme for the provision, management and maintenance of the wildlife habitat adjacent to the River Hit is required to secure its provision and long term maintenance, it being an important contribution to the quality of life for local residents, thereby mitigating the effects of the appeal proposal.
69. As already indicated above, I found that the proposed playing fields were neither necessary nor justified to mitigate the effects of the new development. They are however part of the description of development but in the circumstances of their proffer, a condition requiring their laying out etc would be unreasonable.

Frances Mahoney Inspector

Annex A – Schedule of conditions

- 1) Details of the layout, scale, appearance and landscaping (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.
- 4) The development hereby permitted shall be carried out in accordance with the following drawings:
 - Site Location Plan (Drawing No: LC/001B);
 - Proposed Site Access Design (Drawing No: 15260-10); and
 - Design Concept Strategy (Drawing No: DC/003 Rev B-CD L8) insofar as it relates to the new on-site pedestrian/cycle links.
- 5) The parcel of land, the subject of this permission, adjacent to the River Hit (edged in red on Drawing No: AR/011 (CD B.9)) shall only be used for Playing Fields and a Wildlife Habitat Area and for no other purpose.
- 6) No development shall take place until a written scheme of archaeological investigation; that includes post excavation analysis and publication, has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be implemented in accordance with the approved archaeological scheme.
- 7) No development shall take place until an Environmental Management/Construction Management/Method Plan and Statement with respect to the construction phase of the development have been submitted to and approved in writing by the Local Planning Authority. Development works shall be undertaken in accordance with the approved Environmental Management/Construction Management/Method Statement/Plan. The details shall include, amongst other things, hours of work/piling/deliveries; access arrangements for construction vehicles; contractors parking areas, compounds, including storage of plant and materials; specification of plant and equipment to be used; construction routes; details of wheel washing facilities; loading and unloading areas; minimisation of dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development; an undertaking that there shall be no burning of materials on site at any time during construction; details of any piling required, including method (to minimise noise and vibrations), duration and prior notification to affected neighbouring properties; overall monitoring methodology; and details of the responsible person (site manager/office) who can be contacted in the event of a complaint.
- 8) No development shall take place until details of the existing and proposed final ground levels across the site and the levels of the proposed floor slabs and

- ridges shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 9) The measures within the Travel Plan (dated 23rd April 2014 CDA.19) shall be implemented in accordance with the timetable set out within. The agreed measures shall be retained.
 - 10) No development shall take place on site until a detailed scheme for the provision and future management and maintenance of surface water drainage, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented in accordance with the approved details and timetable and shall be retained thereafter.
 - 11) No development shall take place until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing the works shall be carried out in accordance with the approved details prior to the occupation of any permitted dwelling. The permitted works shall be retained thereafter.
 - 12) The development shall be carried out in accordance with the recommendations and identified mitigation measures contained within the 'Ecological Assessment' (Ref: ECO3300.EcoAss.vf) submitted on 3rd June 2014. These details along with the other associated recommendations shall then be fully implemented in accordance with a timetable to be agreed with the local planning authority prior to the commencement of work on the permitted development. The measures once in place shall be maintained thereafter.
 - 13) Before work on the construction of the first dwelling hereby permitted commences, a scheme for the provision and location of waste receptacles for each dwelling shall be submitted to and agreed in writing by the Local Planning Authority, including a timetable for implementation. The receptacles shall be provided before occupation takes place.
 - 14) No development shall take place until a detailed scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for the implementation of the approved measures. The proposal shall be carried out in accordance with the approved timetable and mitigation scheme and the required measures maintained thereafter.
 - 15) No development shall take place until details of hard and soft landscaping (including details of boundary treatments, public amenity open space, public circulation spaces, both vehicular and pedestrian, youth facility, Local Equipped Areas of Play and Local Areas of Play, footpaths/cycleways) together with a timetable for implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved and in accordance with the approved timetable.

The soft landscaping scheme, with particular emphasis on the tree planting in the vicinity of the southern boundary of the site, the proposed tree and hedgerow planting around the school expansion land, and the other areas of open space, shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes at the time of their planting, and proposed numbers/densities where appropriate; and details of a scheme of management/maintenance of the soft landscaping areas. The soft landscaping areas shall be managed thereafter in accordance with the approved management/maintenance details.

The scheme shall also include an up to date survey of all existing trees and hedgerows on the land, with details of any to be retained (which shall include details of species and canopy spread). Notwithstanding the details contained in the Tree Survey and Constraints to BS5837 dated 20 February 2014 the measures for their protection during the course of development should also be included. Such agreed measures shall be implemented in accordance with a timetable to be agreed as part of the landscaping scheme.

- 16) Prior to the occupation of the first dwelling, a scheme for the provision, management and maintenance of the wildlife habitat area shown on Drawing No. AR/011 (submitted 29.07.2014) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the management body which will be responsible for delivering the management and maintenance of the wildlife habitat area in accordance with the approved scheme. The wildlife habitat area shall be laid out prior to the occupation of the 75th dwelling and thereafter managed and maintained in accordance with the approved scheme.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Alexander Booth of Counsel	Instructed by Andrew Emerton- Planning Solicitor to the Council
He called	
Alex Harrison BA (Hons) MTP MRTPI	Principal Planning Officer
Andrew Emerton	Planning Solicitor to the Council

FOR THE APPELLANT:

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He called	
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Peter Seaborn	Principal Associate Eversheds
David Morris	Planning Director Catesby Estates Ltd

INTERESTED PERSONS:

Ian Kite	Bedfordshire East Schools Trust & Bedfordshire East Multi-Academy Trust
Councillor Fred Wilson	Shefford Town Council

DOCUMENTS

- Doc 1 Statement of Common Ground dated 20 May 2015
- Doc 2 Addendum to Statement of Common Ground dated 29 June 2015
- Doc 3 Heads of Terms for S106 Agreement and Regulation 122/123 CIL Compliance Schedule
- Doc 4 Signed Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990
- Doc 5 Appeal APP/P0240/A/14/2228154 – Inspector Hetherington decision
- Doc 6 Transport Review dated 24 June 2015
- Doc 7 Position Statement of Central Bedfordshire Council dated 30 June 2015
- Doc 8 Supplement to Mr Paul Lishman’s Landscape and Visual Proof of Evidence
- Doc 9 A plan-making programme for Central Bedfordshire 2015
- Doc 10 Conditions
- Doc 11 Copy of Central Bedfordshire Council’s position in regards to the Shefford Town Plan and its position as a planning document as read by Alex Harrison on 1 July 2015
- Doc 12 Shefford Town Plan update 2013
- Doc 13 Shefford Green Infrastructure Plan – September 2010
- Doc 14 Letter from Ian Kite dated 30 June 2015
- Doc 15 Letter from Mr & Mrs Speller dated 8 April 2015

DOCUMENT SUBMITTED AFTER THE CLOSE OF THE INQUIRY

- Doc 16 Letter from appellant company’s agent (Barton Willmore), dated 21 August 2015