



Appeal Decision

Inquiry Held on 14 to 17 and 31 January 2020

Site visit made on 14 January 2020

by Stephen Wilkinson BA (Hons), BPI, Dip LA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2020

Appeal Ref: APP/P0240/W/19/3236423

Land west of Langford Road, Langford Road, Langford, SG18 9QU

- 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 Planning Prospects Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/18/04783/OUT, dated 21 December 2018, was refused by notice dated 5 July 2019.
 - The development proposed is residential development up to 55 dwellings (including 35% affordable housing), landscaping, public open space, children's play area, surface water flood attenuation, vehicular access from Langford Road and associated ancillary works. Outline with all matters reserved with the exception of the vehicular access from Langford Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline form with all matters reserved except for access. Details of appearance, landscaping, layout and scale are therefore not considered in this decision. The application was submitted with a Development Framework Plan CSA/4013/105, showing the proposed areas for housing and landscaping and flood attenuation together with the proposed play area. Given that 'layout' is a reserved matter I have treated the drawing as purely illustrative.
3. In advance of the Inquiry opening I received a Statement of Common Ground, dated 13 December 2019, in respect of Minerals Safeguarding. This addresses the Council's second reason for refusal and states that in the event of the appeal being allowed this matter should be dealt with by way of a planning condition requiring the development to proceed in line with the submitted Minerals Recovery Plan. Neither party presented evidence on this issue during the Planning Inquiry and I did not receive representations from third parties. I agree with this approach and accordingly, I regard this issue as closed.
4. The Council's third reason for refusal includes the absence of a completed legal agreement to offset the infrastructure impacts of the proposed development. A completed Unilateral Undertaking (UU) dated 24 January 2020, made under Section 106 of the Town and Country Planning Act 1990, as amended was

submitted at the Inquiry and a Community Infrastructure Compliance Statement was submitted by the Council. I address this matter later in this decision.

5. The Council has prepared a new Local Plan for Central Bedfordshire which is currently the subject of examination. The appellant and the Council agree that in light of the stage of preparation of the plan, and the level of objections raised, that limited weight can be attributed to its policies in this appeal.

Main Issues

6. The main issues in this appeal are:

- Whether the Council can demonstrate a 5 year housing land supply in line with its requirements and the implications for national and local plan policy;
- The effect of the proposed development on the visual and landscape setting of Langford and the character and appearance of the area, and
- Whether the proposals provide adequate infrastructure directly required for this development.

Reasons

7. The appellant's case is predicated in the first instance on whether the Council's adopted policies are 'out of date' as the Council cannot identify a 5 year housing land supply and irrespective of whether this can be demonstrated the housing policies most important for determining the application are inconsistent with the Framework. If either of these prove to be the case, then having regard to paragraph 11 of the National Planning Policy Framework 2019 ('the Framework') the 'tilted balance' in favour of sustainable development would be engaged.

Planning Policy Context

8. Section 70(2) of the Town and Country Planning Act 1990 as amended, requires regard to be had to the provisions of the development plan, so far as they are material to the application and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for any determination then that must be made in accordance with the plan unless material considerations indicate otherwise. The Framework is such a material consideration.
9. The development plan for the area comprises the Central Bedfordshire North Core Strategy and Development Management Policies (CSDMP) (2009), Site Allocations DPD (2011) and saved policies from the former North Bedfordshire Local Plan (first review 2005). Both parties agree that the weight to be attached to the Development Plan should have regard to paragraph 213 of the Framework.
10. The Framework requires that due consideration is given to which policies are most important for the purposes of decision making and also the extent of weight which should be accorded for the purposes of decision making. I deal with each of these matters below. The degree of weight to be given to them relies on their consistency with the Framework and the closer that they are

with its policies, then the greater weight that can be accorded¹. I deal with each in turn below.

11. The Statement of Common Ground identifies that the 'most important' policies as required by the Framework are those included in the Council's reasons for refusal. Its decision cited Policies DM4, Development Within and beyond the Settlement Envelopes; CS 16 and DM14, Landscape and Woodland; CS14 and DM3, High Quality Development.
12. Policy DM4 provides a rationale for the identification of settlement envelopes based on predominant land use and in so doing distinguishes between the settlements within which levels of growth could occur and the rural areas of the District where it would be resisted. I find no evidence that it is predicated on growth levels identified from the revoked Regional Strategy. Running through the supporting text and policy is an identification with the underlying principles embodied within paragraph 8 of the Framework.
13. The Council identifies this as a 'gateway' policy in determining when other policies such as those for the protection of the countryside should be used. I acknowledge that this policy is not entirely consistent with paragraph 170 of the Framework. Whilst the policy lacks the nuance which identifies the different protections for different landscape types included in paragraph 170 it has value in seeking some protection to the rural areas of the District.
14. I do not accept the appellants arguments that I should follow the approach of my Inspector colleagues in the appeals in Meppershall² and Stotfold³. Their decisions were predicated on an assessment against the previous (2012) Framework. Furthermore, both parties in this appeal acknowledge that despite this policy, the Council continues to grant permission for development outside settlement boundaries. It is not a bar on new development in these locations. I therefore consider that this policy has moderate weight.
15. Policy CS16 seeks to ensure that change does not undermine the essential features which define an area's place and recognises the importance of Landscape Character Assessments (LCA) as the starting point for this assessment. It identifies specifically that landscapes of lesser quality should be enhanced. I consider that the second and fourth bullets of the policy identify with Paragraph 170 b) of the Framework as it seeks amongst other matters to resist development where it would have an adverse effect on important landscape features. Accordingly, I give this policy significant weight.
16. Policy DM 14 requires that development proposals should include landscape enhancements. It specifically highlights the Ivel valley. The wording of the policy identifies closely with Paragraph 170b) of the Framework in recognising the intrinsic value of the countryside and accordingly I accord this policy significant weight.
17. In respect of Policies CS14 and DM3 these policies are predicated on the delivery of sustainable development in line with the now revoked PPS1⁴. Despite this they seek to ensure that new development respects its local

¹ NPPF 2019, Paragraph 213

² CD 4.1.19APP/P0240/W/17/3190584

³ CD 4.1.21 APP/P0240/W/16/W/16/3166033

⁴ Planning Policy Statement 1 - originally revoked by the Framework 2012 which was revised in 2019

context and is appropriate in scale and design to its setting. I consider that both policies are applicable to all proposed development irrespective of its setting. The policies are consistent with paragraphs 127 c) of the Framework and therefore I accord these policies significant weight.

18. There was considerable discussion during the Inquiry on whether Policy CS5 which set the housing requirement for the District for the CSDMP formed a policy most important for this appeal. It was not identified as such by either main party in the completed SoCG⁵. However, as the Council found no conflict with this policy in its reasons for refusal and because the Council's housing targets contained therein are now revoked, I am not persuaded that Policy CS5 forms a policy that is most important for this appeal.

Housing Requirement

19. The approach to determining the extent of the Council's housing requirement is a point of issue between the parties. The Core Strategy was predicated on the delivery of housing targets included in the now revoked Regional Strategy. The Core Strategy policies are more than 5 years old and have not been reviewed as required by paragraph 73 of the Framework and in these circumstances the calculation of local housing need should follow the standard method as set in national planning guidance. In contrast the Council has set out its reasons why it continues to use the Objectively Assessed Need (OAN) included in its Strategic Housing Market Assessment (SHMA) based on 'exceptional circumstances'.
20. The differences in the approaches have a significant bearing on the anticipated demand for housing for the period of the emerging plan 2015-2035. The appellant's approach suggests a need for 2,428 dwellings per annum (dpa) compared to the Council's OAN included in its SHMA of 1,600dpa.
21. Both parties acknowledge that the Framework is policy and not statute and that it allows Councils to depart from the standard method for the calculation of housing demand but only in exceptional circumstances. This is supported by Planning Practice Guidance (PPG). The Council has successfully defended this position at several Section 78⁶ Hearings and Planning Inquiries. Furthermore, it provided a robust response to the Government's consultation on updates to National Planning Policy and Guidance (2018)⁷ where it addressed this point.
22. Contrasting evidence was presented by both parties during the Inquiry on this point. The Council identifies that it has an exceptional case because the standard method uses as its first step the 2014 based sub national population projections which continue to overestimate the extent of actual population growth. Whilst the Council accepts that if the standard method is used it would require 2,428 dpa as the appellants suggest, this would result in 20% growth in stock between 2019-2029. If one discounts the London Boroughs this is the largest rise in additional dwellings for an English Council. The problems lie in the Mid Year Estimates (MYEs) which overestimate the migration figures for the Council's administrative area. The Office of National

⁵ Statement of Common Ground, dated 7 November 2019

⁶ Section 78 of the Town and Country Planning Act 1990, as amended

⁷ CD 3.1.04

Statistics (ONS) have recognised this issue but despite making appropriate downward adjustments the figures continue to overestimate the extent of population increase.

23. The outcome of this work is that the Council has had the seventh largest reduction to the 2016 MYE of any English authority outside of the London Boroughs and the twelfth largest unadjusted population change (UPC) reduction and is within the top 2.5% of all local authorities outside London where these population changes have occurred. Together these figures have resulted in the Council having large adjustments on both these measures which whilst not unique in themselves the Council consider are exceptional.
24. Furthermore, the Council justifies its position with reference to other data sets including the patients register, school census, and pensions data which demonstrate that the level of population growth has actually been lower than identified in the MYEs. In the evidence presented to the Examination in Public (EIP) for the emerging local plan (Exam 33⁸) the Council identifies that the latest ONS estimate for mid-2015 is 272,421 persons, compared to its original estimate which was 274,022 and the SHMA estimate of 271,526 persons. The difference between the SHMA estimate and that of the ONS has reduced from 2,495 to 894 persons. This evidence points to the inherent inaccuracies in the population data used for the standard method.
25. The critical issue for the Council is that the use of the standard method, which forms part of Government policy does not in itself recognise these variances resulting in a continued over estimation of population and consequently housing supply requirements. The Council state that out of the 50 authorities that its consultants have completed similar work for, only Aylesbury Vale DC has the same systematic error in ONS data.
26. In contrast, the appellants argue that in adopting the 2014 population projections the Government are giving priority to the delivery of 300,000 homes per annum. The Government's approach is designed to ensure consistency, transparency and simplicity for local communities. It was developed following the report of the Local Plan Expert Group and followed extensive public consultation. It is an unashamedly policy driven approach which is both transparent and open. They consider that to allow Councils to depart from this approach could result in a failure to deliver on Government policy.
27. The appellants identify that the Council is not exceptional or an 'outlier'. Unidentified population change (UPC), that is the difference between the 2011 population estimate in the rolled forward MYEs and the 2011 census accounts for an increase of 103,680 people across English authorities and in some way affects every Council. However, the majority of Councils have not, unlike Central Bedfordshire, sought to depart from the standard method. This is indeed borne out by the tables common to both proofs which identify the variance in the UPC for other English Councils. However whilst this may be the case, I agree with the Council that the critical issue regarding these figures is that downward adjustments are more likely to 'offend' the standard method compared to upward adjustments which would be more in line with the Government's priority to boost housing delivery.

⁸ CD 4.3.01 Exam 33 Housing and Employment Note

28. Furthermore, I accept that it is appropriate that the London Boroughs are excluded from the ranking order included in the tables, included in the appendices to the proof of the Council's witness. The Greater London Authority manages the calculation of housing land supply for individual boroughs as part of its Spatial Development Strategy for the capital and it is not a matter left solely for the individual Boroughs to address through their local plans.
29. The appellant seeks to substantiate their criticism of the Council's approach through the use of further detailed statistical analyses. They also suggest a 'hybrid' approach involving a departure from the 3 step approach advocated by the standard method with the development of 2 variants⁹. This is a similar suggestion to that made during the New Road Hearing¹⁰ which was rejected by the Inspector because it did not follow the tried and tested principles of either the standard method or the SHMA. I agree with my Inspector colleague on this point.
30. The appellant suggests that the most appropriate place to debate the merits of the standard method and the OAN is through a Local Plan Examination and not just through a Section 78 Inquiry. But this is what the Council is currently doing. It's use of the SHMA to inform this appeal is entirely consistent with the approach adopted by neighbouring Luton Borough Council for its Local Plan and the Council's evidence base for its emerging local plan having been prepared in line with transitional arrangements and which is currently undergoing Examination. In my opinion for the Council to depart from this process for a section 78 planning appeal would be perverse at this stage.
31. Furthermore, parties drew my attention to Exam 33¹¹ of the Examination evidence. My reading of this paper is that it does not indicate that the Examining Inspectors have raised fundamental issues with the Council's use of the SHMA but are seeking clarification on a number of points. Finally, on a strategic point if the Council were to knowingly use data sets which inflated the levels of demand for housing there would be a consequence for other services which could result in over provision. This would not serve the public interest.
32. Both parties made reference during the Inquiry to the decisions of my colleague inspectors on this matter and in particular to those most recent decisions New Road, Clifton¹², Clophill Road Maulden¹³, The Park Farm Westoning¹⁴ where the Council's witness for this appeal also gave evidence. Whilst I am not bound by these decisions, they each acknowledge that departure from the standard method is acceptable in exceptional circumstances and each appeal was dismissed. Importantly each of these decisions was made following the adoption of the latest draft of the Framework.
33. Reference was also made by the appellant to an appeal decision in Tendring District Council¹⁵ which the appellant's witness stated has a greater variance

⁹ Proof of Mr Tom Baker Table 1 pp23-27

¹⁰ APP/P0240/W/19/3220640

¹¹ CD 4.3.01 Exam 33 is a paper on housing issues issued by the Council as part of its evidence base

¹² CD 4.1.23 APP/P0240/W/18/3206459

¹³ CD 4.1.24 APP/P0240/W/18/3216675

¹⁴ CD 4.1.27 APP/P0240/W/18/3204513

¹⁵ APP/P1560/W18/3194826 P31 Mr Baker's proof

in population estimates caused by the MYE than Central Bedfordshire. However, through cross examination Mr Baker admitted that from his understanding Tendring did not advocate for an alternative to the standard method and in these circumstances it would not normally be the role of the Inspector to advocate for a departure from the standard method if an alternative was not being suggested. I therefore consider this decision has little bearing on this appeal and I give it limited weight.

34. The calculation of population estimates is an inexact science and the different approaches of both parties have their imperfections. For the Council to be justified in substantiating its case does not require it to be an extreme outlier in the rankings of local authorities, only that it has legitimate concerns which are evidenced by serious flaws in the population projections which would be used to inform the standard method. Individual Councils have the leeway to calculate their housing requirements in this way. Both parties acknowledge that Councils can depart from the standard method; this is consistent with the use of the SHMA for Central Beds emerging local plan under the transitional arrangements. However, I do recognise that the SHMA, from Mr Parker's evidence for the appellants, uses a narrower definition of housing need than that now advocated in the Planning Practice Guidance (the Guidance) which could result in a low estimation for assessing the levels of affordable housing required. However, this is outweighed by the overall need to ensure that the Council employs population figures which more accurately reflect the extent of growth across its administrative area in order to accurately plan for service delivery on a coherent basis.
35. Whilst acknowledging the importance of the Government's priority to deliver more housing I conclude on this issue that the Council's use of the SHMA to identify the level of housing demand is appropriate. One Council adopting a different method from the norm which is based on sound evidence to that advocated in national guidance would not in itself undermine or threaten the delivery of the Government's stated objective of achieving 300,000 completions per annum. The Framework allows the setting aside of the standard method in exceptional circumstances. I consider that the Council has in this instance demonstrated 'exceptional' circumstances why this should be so in this case. For these reasons, based on the evidence before me, I consider that the Councils housing target of 1,600 dwellings per annum¹⁶ (dpa) provides an appropriate figure for the housing requirement across the District for the purposes of this appeal.

Housing Land Supply

36. During the Inquiry the Council presented a delivery trajectory for housing sites over 5 years from 1 July 2019-30 June 2024 in line with the requirements of paragraph 73 of the Framework.
37. The SHMA, January 2018, identifies that 32,000 new homes for the Council are required for the period of the emerging local plan (2015 -2035). The Councils 5 year land supply statement¹⁷ identifies that 8,353 net new dwellings have been completed resulting in a surplus of 1,553 dwellings. This is evidence of a buoyant local housing market.

¹⁶ Appendix 5 to Mr Hughes Proof of Evidence

¹⁷ Ibid

38. The Council has applied a buffer of 5% to ensure choice and competition in the market in line with the Framework; this is not disputed by the appellant. On this basis and accounting for the completions to date which is above the anticipated level for the plan period, the Council estimate that for the remainder of the plan period 23,647 homes are required. This amounts to a total of 7,882 homes required for the 5 year period running from 1 July 2019-30 June 2024.
39. According to the Council's statement the housing trajectory identifies a 5 year supply of 10,077 dwellings which is 2,195 dwellings more than is required for this period and the Council can demonstrate 6.39 years supply for the next 5 years. This was subsequently revised down in written evidence submitted by the Council's witness to 9,511 dwellings equating to 6.03 years supply following a review of the contribution of 2 sites.
40. I do not accept the appellant's assertion that the 'banking' of early delivery in excess of the annualised target is not compliant with the Guidance. I consider that this is a sensible and reasonable approach in line with the essential thrust of the Framework and PPG, (reference ID: 68-032-20190722). Accordingly, subtracting the past over delivery provides a residual annualised requirement of 1,576dpa.
41. The Glossary included in Annex 2 of the Framework includes a definition of 'deliverable' which is supported by further definition in the PPG. This identifies that for sites to be considered deliverable they should be available now with a realistic prospect of delivery within 5 years. Two closed lists are set out in the definition. The first identifies sites which do not involve major development and have planning permission and all sites with detailed planning permission. These should be considered deliverable until permission expires unless there is clear evidence that not all homes will be delivered within 5 years. The second covers sites with outline planning permission for major development which have been allocated in a development plan, have a grant of permission in principle or is identified in a brownfield register. These sites should only be considered deliverable where there is evidence that housing completions will begin on site within 5 years. (my underlining).
42. The PPG goes into more detail on the requirements for sites to be considered deliverable and highlights evidence of delivery as including progress actually made to achieving reserved matters, links to a Planning Performance Agreement (PPA) which identifies the steps to achieving reserved matters, details which confirm the developer's delivery intentions with anticipated start and delivery dates, site assessment works and relevant information about issues such as viability, ownership and /or funding bids for infrastructure. This is not meant to be a definitive list but provides pointers to the prospects for housing delivery.
43. The appellants raised additional concerns over the Council's approach to the calculation of supply together with more fundamental concerns over the contribution of specific sites to the 5 year Housing Land Supply (HLS) I deal with these matters in turn below.
44. I regard the Council's quarterly monitoring and reporting following meetings with its development partners involving moderation of anticipated delivery as a logical and acceptable approach. The Council both in written evidence and through the round table gave examples of how moderation was working in

practice. This approach would overcome the 'trap' which the appellants allege the Council falls into in accepting the 'optimistic' assessments which can be sometimes be made by developers and housebuilders. I do not entirely accept the appellant's criticism that the quarterly reporting mechanism employed by the Council can inflate delivery rates¹⁸ and that they should be taken as an opportunity to re-base the delivery programme for each quarter. It would be difficult, to be able to measure the extent to which this could inflate supply on a consistent basis during the plan period.

45. A considerable amount of research evidence drawing on Government and national reports was supplied by the appellant demonstrating the intractable issues inherent in the house building market which can frustrate delivery. These identified concerns over lead in times, build out rates, 'absorption' rates, and competing interests of house builders on large sites.
46. The appellant provided tables on lead in times for major sites drawn from national reports and an adjoining borough. However, I am more inclined to accept the evidence presented in Matter 10¹⁹ of the Examination into the emerging Local Plan which indicates lead in times for large sites of around 100-200 dwellings for 2 years and for sites of 100-500 dwellings is 3.3 years. This information is based on the state of the local housing market and may reflect that within Central Bedfordshire many sites are 'greenfield' where construction is easier to commence than on urban sites which could include a legacy of contamination and dated infrastructure and would be more difficult to develop.
47. I have taken as the basis for my assessment, the tables and schedules included in the Statement of Common Ground (SoCG) on Housing Land Supply which were informed by the round table discussion between the parties at the public inquiry. For the major sites I have given considerable attention to the opinions of both parties on how far progress is being made against the definition of 'deliverable' contained in both the Framework and the Guidance. Clearly on some sites it has been difficult to actually determine what the final delivery programme would actually look like given their current state of play, size, the range of development partners and for others their location straddling administrative boundaries, e.g. Wixams or whether they are greenfield with a minimum of issues such as contamination or old services to address.
48. The SoCG identifies the main areas of difference between the parties on allocated and large strategic sites, large unallocated sites, local plan strategic allocations, small and emerging local plan allocations and both categories of small sites which in total amounts to around 3000 units. However, aside from the allocated and large sites, which I address below, the difference between the parties under Scenario 1²⁰, which represents the most extreme case suggested by the appellants, amounts to 750 dwellings for the whole of the 5 year period.
49. The appellant makes reference to the Examining Inspectors letter²¹ where concerns were expressed over the strategic allocations. However, the

¹⁸ Mr Roberts Proof of Evidence paragraphs 3.8-3.10

¹⁹ CD 5.2.03

²⁰ Table 1 SoCG

²¹ CD 4.3.02 PINS letter to Central Bedfordshire Council -30 September 2019

schedule which was discussed between parties during the Inquiry reflects 'live' sites where building is either imminent or in progress. Only the site HT208, land east of Biggleswade is included in both the calculation of the 5 year HLS and referenced in the Examining Inspector's letter as policy reference SA4. I consider this site below.

50. My views are presented as only a snapshot in time of each site on their prospects for housing within the next 5 years delivery. I deal with each in turn below and suggest adjustments:

- HT005 Land at Chase Farm – this is a greenfield site with the benefit of an outline planning permission with a PPA. Progress is being made which includes the delivery of a spine road and the Council who own it anticipate completing the sale transfer this year. However, I agree with Mr Roberts that the anticipated delivery rate is ambitious and accordingly anticipate that delivery will be delayed. I have deleted 96 dwellings from the 5 year housing land supply on the assumption that completions will commence in 2022/23 (this is on top of the Council's revised estimate).
- HT052 Land at Steepingley and Froghall Roads – both parties agree to the removal of 50 dwellings. I have no reason to disagree.
- HT057 Site 1 - North of Houghton Regis – the details included in Matter 10²² highlight that implementation commenced in 2019. I consider that the information supplied by the Council is sufficient evidence of developer interest and that the construction programme over the next 5 years is in line with the trajectory.
- HT058 – Site 2 - both parties agree the delivery figures for HT058i and HT058ii. For this site the difference between the parties is on HT058 Site 2 -Land west of Bidwell. The Council has provided convincing evidence in the form of a series of reserved matters permissions which account for the delivery of dwellings within the next 5 years²³. However, I consider that given the likely dates of outstanding reserved matters permission there is a likelihood of some slippage but not the extent of considered by the appellants. I consider that 200 units should be removed from the trajectory.
- HT078 Clipstone Park - although this is a greenfield site involving several different plots (HT 078a, 078b, 078c and HT 079i) the main point of difference between the parties is the rate of delivery on HT078. There are reserved matters permissions for 551 dwellings on sites identified in the SoCG. The Council confirmed during the roundtable session that there were no outstanding objections from the Drainage Board. Although the appellant doubts the progress being made on the reserved matters application for 402 dwellings, I consider that the submission of the reserved matters application is in itself a sign of sufficient progress, in line with Guidance, on this site to warrant justification of the Council's figures. The trajectory indicates no delivery until 2021/2022 which in these circumstances is reasonable.
- HT 117 - Wixams – both parties agree with the trajectory for HT 117a, b, c. The remaining part of the site whilst having the benefit of an outline

²² Statement of Common Ground on HLS

²³ Proof of Mr Hughes para A4.26

permission does not have a reserved matters permission. Given the scale of the site and its planning status, I consider that the Council's trajectory is too ambitious and that 160 units should be deleted from the 5 year supply

Large unallocated sites

- HT 148i Land opposite The Lane – although benefitting from an outline permission there is no application for reserved matters. I am advised that the completed section 106 agreement includes a build out programme within the timeline of the trajectory. On that basis I consider that commencement would be likely to be later than the trajectory implies but that the site would still contribute in its entirety to the 5 year supply.
 - HT 148b Land opposite playing fields and Mill Lane. Given that the site has a section 106 agreement pursuant to a planning permission which includes a build programme, I consider that this should be retained in the 5 year housing land supply as it is evident that progress is being made to address outstanding conditions.
 - HT 136 Former Council leisure centre- this has the benefit of an outline planning permission following the expiration of the original permission. I consider that although framework contracts have been signed insufficient progress has been made in respect of securing necessary approval of reserved matters and so the whole site should be removed from the Council's trajectory (loss of 132 units).
 - HT 208 Land east of Biggleswade – both parties accept that there are issues with the delivery of the site regarding a ransom strip which the Council's indicated would push housing delivery towards years 4 and 5 of the trajectory, reducing the sites contribution from 537 to 117 dwellings. I think that the appellants approach is more realistic given the site constraints and the concerns over the Examining Inspectors regarding the Sustainability Appraisal. There is no evidence of progress regarding the site's planning status and accordingly I am taking out this site out of the programme. This would result in the loss of 537 units (117 more than anticipated in the Council's programme).
 - HT 118 (formerly 237) Thickthorn Farm, Wixams Southern extension - The completed Section 106 agreement includes a build out programme and a housebuilder is on board. I was advised during the roundtable discussion, that contracts were due to be exchanged during the week of the Inquiry. The appellants acknowledge that whilst progress is being made the build rate programme anticipates 210 units in a single year. This is not, however, evidenced from the trajectory. I consider that given the recent signing of the agreement 60 units should be deleted from the trajectory to allow for later commencement.
51. The Council considers that it has a supply equating to around 6.03 years based on 9,511 units identified within its trajectory²⁴. However, based on the above analysis, I have deleted a further 770 units. If I were to allow for a further reduction based on the appellant's figure of 750 units for all the other categories of sites in dispute included in Scenario 1, the supply would be

²⁴ Mr Roberts Proof Addendum para

reduced by a total of 1,520 dwellings. On this basis, the Council would still be able to demonstrate a 5 year housing land supply.

52. Accordingly, in line with paragraph 11 d) of the Framework the 'tilted balance'²⁵ is not engaged. My assessment of the planning merits of this scheme will proceed against the policies of the development plan.

Landscape setting and character and appearance

53. There are two related aspects to this main issue. The first addresses the impact of the proposals on the setting of Langford and the second which concerns the integrity of the wider landscape.
54. The appeal site's location beyond the northern edge of Langford's settlement boundary is not in dispute by the parties. Policies DM4, CS 14 High Quality Development, CS16 Landscape and Woodland, DM3 High Quality Development and DM14 Landscape and Woodland apply to this proposal. Together these seek to preserve the character of the countryside as defined by the Landscape Character Area (LCA), require development proposals to enhance landscapes of lesser quality and to protect trees, woodland and hedgerows.
55. The appeal site forms part of the National Character Area of the Bedfordshire and Cambridgeshire Claylands (88), the East of England Regional Typology, defined as lowland farmlands. At District level the Central Bedfordshire LCA 2015 identifies the site as within the Lower Ivel Clay Valley (LCA4B) and assesses the overall landscape character as 'weak'. The appeal site does not fall within any statutory landscape designations.
56. The Landscape Character Area 4B- identifies key characteristics including, level open river valley, mixed land use of arable and improved pasture. In particular the River Ivel and its fringing vegetation is described as contributing to a sense of place and nature conservation and views of /towards the river corridor is described as just one of two visually sensitive areas.
57. The appeal site is flat without any specific features of note but in this regard is characteristic of land within the Lower Ivel Clay Valley character area. The site's largely open boundaries to both the east and north results in the site forming an integral part of this landscape. When viewed from within the site it can be seen as being contiguous with the arable fields to the east across Langford Road and extending to the embanked A1 road to the east. This is a landscape of arable fields broken by the occasional clump of hedges and trees. To the west of the site beyond a paddock lies the River Ivel with its distinct wooded edge. The site's boundary on this western edge includes a broken hedgerow, trees with a post and rail fence.
58. The appellants argue that the proposed scheme would be consistent with, another chapter in the development of Langford which has been characterised by fingers of development extending into the countryside along frontages to principal roads which are subsequently backfilled. This has resulted in the range of architectural styles with frontage buildings pre-dating the dates of those which infill behind. However, the appeal proposals would break with the organic form of growth and would extend the village into the arable fields to the north. Instead of being a finger of development it would be of considerable scale which could not be readily addressed through the

²⁵ Defined by paragraph 11 of the Framework 2019

mitigation identified in the illustrative framework plan included with the application. In this sense the proposals would cause harm to the setting of Langford. The rationale which underpins Policy DM4 in seeking to contain new development within 'settlement envelopes' is clear. The proposals would run counter to this resulting in harm to the landscape setting of the settlement.

59. I now turn to the issue of the impact of the proposals on the character and appearance of the area. I do not accept the appellant's assertion that the site lies within a 'zone of transition' which extends from the northern settlement boundary along the west side of Langford Road from Ivel cottages and includes Langford Road Farm, Running Water Farm, kennels, small groups of houses and the Biggleswade Rugby clubhouse up to the A1 road bridge. Whilst it may be less open than the land on the east side of Langford Road the implication of its description as a 'zone in transition' is that the area is somehow a fractured landscape or a 'peri-urban' area which displays signs of stress. The aerial photographs submitted as part of the landscape impact assessments by both parties identify that the west side retains its largely arable character and where there is development this is limited in scale.
60. To the east of the site there is an extensive footpath network. Footpath FP18 extends east from Langford Road over the rail line and links to the newly promoted Biggleswade loop which continues on bridleways. To the west of the appeal site along the western bank of the River Ivel there is an Anglers path and a new permissive path on its eastern side which will form part of the Kingfisher Way extending south from Jordan's Mill. These routes were walked as part of my unaccompanied and accompanied site visits.
61. Within this flat and homogeneous landscape any development would represent a stark change to its character. This requires that special attention is required if new development is to preserve the inherent qualities of this landscape. Whilst I regard the 'Development Framework Plan' which was submitted for illustrative purposes only, it does indicate how the landscape impact of the proposed housing scheme could be mitigated. This would be through the introduction and strengthening of boundary planting in line with guidance for new development included in the LCA. Accordingly, I have given these measures further consideration below.
62. The main parties disagree on the extent to which the landscape impacts of the proposals would be contained. Along the route of bridleway (BW) 52, the site is prominent in many places when approaching from the west although this is not consistent given the occasional patches of shrubs and trees which break up views. The more critical views are experienced from the east along footpath 17, which runs parallel to the railway line, FP1 as it returns towards Wychway Farm and along FP18 on its approach towards Langford Road Farm from the east. These are identified in the Council's viewpoints A-H and K.
63. However, further east beyond the rail line, towards the pathways which form the proposed Biggleswade loop and continuing along the network of bridleways (BW52, 53 and 54), the site's prominence diminishes caused in part by the low embankment to the rail line, clumps of trees and distance. Accordingly, I am inclined to agree with the appellants that views from the east would be largely contained by the rail line.
64. However, notwithstanding this, the defining feature of this area is the contrast between the horizontal sweep of arable fields which extend to the vertical rise

of the well treed boundaries along the river corridor. This would be lost through the development on this site at a point where the river meanders close to the appeal site. Although I acknowledge that some landscaping along the frontage as suggested in the illustrative Framework Plan could mitigate views from the east, the stark contrast in this landscape accentuated by natural vegetation would be compromised. I consider this would have an adverse impact on the landscape character of the area resulting in harm.

65. On my accompanied site visit, I walked along the east bank of the River Ivel along the proposed route of Kingfisher Way. From this position, the site would appear visible at several points. Whilst the Framework plan indicated that the western part of the site could include an ecological and flood attenuation area this form of mitigation would not be sufficient to overcome the harm to the area's character and appearance. I do not accept the appellant's arguments that the proposals would have the same impact as the newly completed development at Ewbank corner. The appeal proposals would be closer due to the meander of the river and would have greater impact.
66. To conclude on this issue, whilst the proposals could result in a strengthening of the field boundaries, I consider that they would have an unacceptable impact on the setting of Langford and the landscape qualities which underpin the Lower Ivel Clay Valley Character Area. In this regard, I conclude that the proposal would cause harm and be in conflict with adopted Policies CS14, CS16, DM3, DM4 and DM14 of the CSDMP 2009. Furthermore, they would be in conflict with paragraphs 127 and 170 of the Framework.

Infrastructure Provision

67. The Council's third reason for refusal refers to the absence of a legal agreement to offset the infrastructure required to mitigate the impacts of the proposed development. A completed Unilateral Undertaking (UU) made under section 106 of the Town and Country Planning Act, as amended 1990 dated 24 January 2020 was submitted to the Inquiry. The UU makes provision for 35% of the proposed housing to be affordable with additional financial contributions for early years, lower, middle and upper schools in the area, indoor and outdoor sports facilities, a local library and waste management.
68. I am satisfied that the UU provides an appropriate mechanism to provide the infrastructure required to mitigate the impacts of the development. I address whether the UU meets the tests of the Framework and the CIL Regulations below. The appeal scheme would therefore comply with Policies CS2 and CS7 of the Core Strategy which seek developer contributions from developments which necessitate improved infrastructure and affordable housing provision.

Other Matters

69. There was a clear difference between the parties with regard to the delivery of affordable housing units. Having considered the evidence I acknowledge that the affordability ratio across the District may be increasing and may even be worse than the national picture as identified by the appellant's witnesses. Mr Parker for the appellant considers that in his opinion there is a consensus within national policy, guidance and a range of other sources including appeal decisions that the provision of affordable housing should be accorded significant weight. Within Central Bedfordshire the appellant considers that,

the SHMA underestimates the level of affordability and that despite a requirement for 400 affordable dpa the Council is underdelivering²⁶.

70. What is clear from the evidence presented by the parties is that there are issues in how the Council reports affordable housing completions. I consider that the Council has had a historical problem of under reporting rather than under delivering. Based on evidence presented in chief in how affordable housing completions are systematically reported I am inclined to agree with the Council's witness that 1,753²⁷ affordable homes which are included in the Councils annual monitoring reports have been delivered in the last 4 years. This is above the figures included in the 'live tables' which the appellant stated and in keeping with the figures identified in the SHMA.
71. I note the comments of my Inspector colleague, in her appeals decision on the Broad Street, Clifton²⁸ that the provision of affordable homes was 'a significant social benefit' which carries considerable weight. However, it is unclear the context for this decision and whether regard was made to an overall assessment of housing land supply and what other matters were addressed through the planning balance. On this basis, whilst I recognise the importance of the inclusion of affordable housing in the appeal scheme, I place only moderate weight on this matter.

Planning Obligation

72. The Framework confirms that planning obligations should only be sought to mitigate the effects of unacceptable development therefore making it acceptable. The Framework in paragraph 56 and CIL Regulation 122 (2) set out 3 'tests' for seeking planning obligations. They must be necessary to make the development acceptable in planning terms, be directly related to the development and fairly and reasonably related in scale and kind to the development.
73. A Community Infrastructure Levy (CIL) compliance statement provided by the Council concludes that the obligations meet the tests of the Framework and CIL Regulations. However, in the light of my findings above, it is unnecessary for me to consider this matter further.

Planning Balance and Overall Conclusion

73. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications for planning permission must be in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 11d) of the Framework would be an important material consideration if there were no relevant development plan policies or the policies which are most important for determining the appeals were out of date.
74. In my consideration of the local policy context, I concluded that there were 5 most important policies against which this proposal should be considered, Policies CS14, CS16, DM3, DM4 and DM14 of the CSDMP 2009. Accordingly, apart from Policy DM4 which I accord only moderate weight all are accorded significant weight. Together these combine to form a coherent framework to

²⁶ Mr Parker proof p38

²⁷ ID.7 Affordable housing returns for 2016-2019

²⁸ CD 4.1.28

protect the rural areas which lie beyond settlement boundaries from development which would not preserve or enhance its distinct character. This is the determining issue of this appeal.

74. I do acknowledge, however, that the proposals would bring benefits for the wider community which would include the provision of a play area, strengthened boundary planting and improved opportunities for local ecology as identified in the illustrative framework plan. Furthermore, it is considered that the scheme would bring some benefits to the local economy including short term construction jobs, financial contributions to the Council from the New Homes Bonus and future Council tax payments and support for local services from the spend of 55 new households. Furthermore, the scheme would deliver 19 affordable homes which is a distinct benefit in its own right. I attribute these benefits significant weight.
75. I regard the measures (other than those which address affordable housing) included in the UU as having a neutral effect as they are required to mitigate the impacts of the development.
76. When these benefits are set against the adverse impacts which would result to the landscape setting of Langford and the negative impacts on the area's landscape character, I conclude that the harm that would result would be significant and outweighs the schemes purported advantages. The proposals would not be in accordance with those policies of the development plan which I accord significant weight, as outlined above. I therefore conclude that the proposals would result in an unacceptable degree of harm, be contrary to adopted Policies CS14, CS16, DM3, DM4 and DM14 of the CSDMP 2009 and furthermore, in conflict with paragraphs 127 and 170 of the Framework. For these reasons I dismiss this appeal.

Stephen Wilkinson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alexander Booth QC of Counsel instructed by Central Bedfordshire Council

He called:

Mr Phillip Hughes BA MRTPI DMS, MCM I Director, PHD Chartered Town Planners Ltd

Mr John Jeffcock BA (Hons), NZILA(Registered), CMLI, MLA Associate, Michelle Bolger, Expert Landscape Consultancy

Mr Jonathan Lee BSc, Managing Director, Opinion Research Services

FOR THE APPELLANT:

Ms Thea Osmund -Smith of Counsel instructed by Jason Tait BA (Hons) DIP TP MRTPI, Director of Planning Prospects

She called:

Ms Silke Gruner BHons Associate Landscape Architect, CSA
Landscape Architect CMLI

Mr Tom Baker BSc (Hons) Associate Director, Savills
MSc MRTPI

Mr Alex J Roberts BSc Director DLP Strategic Planning Resource Unit
(Joint Honours) Associate RTPI

Mr Jason Tait BA (Hons) Director, Planning Prospects
Dip TP. MRTPI

Mr David Parker BA (Hons) Chairman Pioneer Properties Ltd
MSc, DMS, FCIH

Interested Parties

Mr Ian Bond Ward and Town Councillor for Biggleswade

Mr John Shipman Vice Chair of Langford Parish Council, Chair of the Neighbourhood Plan Steering Group

Mr John English Campaign to Protect Rural England

ADDITIONAL DOCUMENTS PRESENTED DURING THE INQUIRY

ID.1 Letter from Central Bedfordshire Council dated 9 January 2020

ID.2 Opening Statement on behalf of the Appellant

ID.3 Opening Submissions on behalf of Central Bedfordshire Council

ID.4 Representations from Mr John Shipman of Langford Parish Council (JMS Ver3)

ID.5 Representations from Mr John English of Campaign to Protect Rural England

ID.6 Summary note from Mr John Shipman on the Langford Neighbourhood Plan

ID.7 Central Bedfordshire Council note on Affordable Housing Completions for financial years 2016-2019

ID.8 Extract from MCHLG on net additional dwellings in Central Bedfordshire submitted by the Appellant

ID.9 Summary note from Mr Lee of ORS on adjustments to population estimates

ID.10 Response from Mr Baker of Savills in respect of the Mr Lees note

ID.11 Completed Unilateral Undertaking, dated 24 January 2020

ID.12 Closing Submissions on behalf of Central Bedfordshire Council

ID.13 Closing Submissions on behalf of the Appellant

ID.14 Decision of the High Court in Wavendon Properties Ltd v SSHCLG and Milton Keynes Council [2019] EWHC 1524 (Admin)

Richborough Estates