



Appeal Decision

Hearing Held on 10 March 2020

Site visit made on 11 March 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2020

Appeal Ref: APP/P0240/W/19/3239386

Land at Bower Lane, Eaton Bray LU6 1RB

- 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 Settle Group and Taylor French Developments against the decision of Central Bedfordshire Council.
 - The application Ref CB/18/03308/OUT, dated 29 August 2018, was refused by notice dated 18 April 2019.
 - The development proposed is residential development of up to 120 dwellings with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. At the time of the Hearing and this Decision, the development plan for the area comprises saved policies of the South Bedfordshire Local Plan Review (2004) (the LPR), the Central Bedfordshire Mineral and Waste Local Plan (2014) and the Eaton Bray Neighbourhood Plan (October 2019) (the NP). Reference has been made to the emerging Central Bedfordshire Local Plan (the CBLP) which was submitted for examination in April 2019 and hearings held between May and July 2019. At the Hearing, I was advised that there remains further work for the Council to do following the interim findings of the Examining Inspectors, with further hearing sessions anticipated later in the year. Thus, it was common ground between the parties, and I concur, that the policies of the CBLP should attract no more than limited weight at this stage.
3. The application was made in outline, with all matters reserved except access. I have considered the appeal on that basis and regarded details of the site layout and landscaping as being for illustrative purposes only.
4. At the Hearing, a draft unilateral undertaking (UU) was submitted by the appellants which was subject to discussion. Given the need to obtain signatures from a number of parties, including one abroad, I allowed the appellants to submit the signed UU after the close of the Hearing. I consider this later.

Main Issues

5. The appeal site lies within an area of Green Belt. There are no saved policies of the LPR relating to development in the Green Belt. Accordingly, the Council relies upon the National Planning Policy Framework (the Framework) wherein the Government attaches great importance to Green Belts. The Framework

states that the construction of new buildings within the Green Belt is inappropriate development, and the main parties agree that the proposal would constitute inappropriate development in this case. I have no reason to reach a different view, based on all I have seen and read.

6. Therefore, the remaining main issues are:

- The effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- The effect on the landscape character of the area, including the loss of best and most versatile agricultural land;
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on Openness of the Green Belt

7. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
8. The appeal site is an undeveloped, agricultural field laid to grass with the exception of an area of orchard and internal hedgerows which divide the site into a number of smaller paddocks. In spatial terms, the development of up to 120 dwellings would add significant built form where there presently is none, in conflict with the fundamental aim of keeping land permanently open.
9. In visual terms, the site is open to clear views from Bower Lane, from the public footpath running alongside the eastern boundary, from the approach road into the village from the east (Harling Road), and from dwellings bordering the site on Yew Tree Close, Orchard Lane, Moor End Lane and Mill End Close. From each of these vantage points, the absence of development on the site is obvious and the development would be clearly seen. The land to the centre of the site also rises slightly above these surrounding points which would increase the visibility of dwellings. For these reasons, the proposal would result in a significant loss of openness.

Green Belt Purposes

10. With respect to the purposes of the Green Belt listed at Paragraph 134 of the Framework, the Council cites conflict only with b) to prevent neighbouring towns merging into one another, and c) to assist in safeguarding the countryside from encroachment.
11. The appellants in evidence point to the Central Bedfordshire and Luton Green Belt Study (July 2017) wherein the appeal site forms part of parcel EB2 roughly surrounding the eastern side of Eaton Bray. The appellants quote the study as stating that "...smaller areas adjacent to Eaton Bray make a weaker contribution [to the Green Belt purpose of preventing towns merging]". However, that quote in fact refers to parcel EB1 to the west of Eaton Bray. The study identifies all of the land in parcel EB2 as making a strategic contribution to the purposes of Green Belt, 'moderate' in the case of the purpose of

- preventing towns merging, and 'relatively strong' in terms of preventing encroachment into the countryside.
12. The appellants accepted at the Hearing that the development would be a form of encroachment, but consider this would be limited as the site forms a gap between built form, is well contained by existing, mature landscaping and is suitably related to the development boundary of the village, identified by the appellants as being the eastern boundary adjacent to the public footpath. However, I saw little to suggest the eastern boundary and adjacent public footpath form an established or recognisable edge to the settlement given development does not commence in earnest for some distance beyond it along Bower Lane.
 13. Rather, I saw that the approach to Eaton Bray along Harling Road was through flat, open countryside, with the appeal site directly in front as one approaches Bower Lane. The site boundaries are relatively low hedgerows which enable views into the site where the absence of development within it is readily apparent. Moreover, on this approach, dwellings off Moor End are not visible due to the intervening vegetation and their position on lower ground, and there is little impression of the site being a limited parcel of land squeezed between visible built form. On the site itself, I found it to be open, natural and agricultural in character, similar in form and function to the fields to the east and connected to them physically and visually. As such, I am satisfied that the site forms part of the open countryside. The proposal would be a large, estate type development which would extend across a large part of the appeal site and in doing so would significantly harm the Green Belt purpose of safeguarding the countryside from encroachment.
 14. With respect to the purpose of preventing neighbouring towns merging into one another, it is evident that Eaton Bray and Edlesborough are already physically connected by the continuous built form along Moor End. However, development on Bower Lane is intermittent and maintains a largely rural character along much of its length until continuous development begins on one side at Café Masala. Development of the site would significantly extend the urban built form, and the footprint of Eaton Bray, along Bower Lane and towards Moor End. I accept that the retention of the orchard and area of public open space would mean there would not be a complete merging of development, but the proposal would extend the degree to which the two settlements are connected and thus I find that there would be a moderate adverse impact in respect of this Green Belt purpose.

Effect on Landscape Character

15. The site is located within the National Character Area (NCA) 88 – Bedfordshire and Cambridgeshire Claylands. The appeal site and its surroundings exhibit a number of its key characteristics, including predominantly open, arable landscape, planned regular field boundaries and small villages and widely dispersed linear settlements giving a more rural feel. The Chilterns NCA 110 lies nearby featuring a prominent chalk escarpment from where panoramic views of the area surrounding the appeal site are possible.
16. At a local level, the site lies within the Eaton Bray Clay Vale Landscape Character Area 5A¹, features of which include a large-scale low lying flat, open,

¹ Set out in the Central Bedfordshire Landscape Character Assessment (2015) (the LCA)

intensive agricultural landscape, predominantly arable, but with some pockets of pasture particularly near settlements; mixed field boundaries, occasional secondary woodland and smaller, contained villages including Eaton Bray.

17. Saved Policy BE8 of the LPR requires that any natural inbuilt features which are an attractive aspect of the site are protected and conserved; that proposals take full account of the need for, or opportunities to, enhance the reinforce the character and local distinctiveness of the area. The policy further requires the size, scale and overall appearance of the development to complement and harmonise with local surroundings particularly in terms of adjoining buildings spaces and longer views, and that the setting of the development is carefully considered including its impact on public views into, out of or over the site which should not be harmed by the development. Though of some age, this policy is consistent with the Framework in that it requires a balance to be struck between permitting development and the recognition of the intrinsic character and beauty of the countryside. I therefore accord significant weight to saved Policy BE8.
18. The site also forms part of a defined Local Gap under Policy EB8 of the recently adopted NP, the purpose of which is to prevent the visual coalescence of Eaton Bray with Edlesborough and to protect their character and rural setting. The policy requires development proposals to ensure the retention of the open character of the Local Gaps. This policy postdates the latest Framework and I afford it significant weight.
19. I have had regard to the appellants' Landscape Technical Note (LTN) which assesses the site as forming part of the village rather than open countryside, due to being markedly different in visual character to the local and national landscape character areas surrounding the site, and due to being 'sandwiched' between residential development and part of the already merged villages of Eaton Bray and Edlesborough. As I have already indicated, I do not agree with the appellants' conclusions in these respects. There is initially very sporadic development on Bower Lane which gradually increases in density as one enters the village. This makes for a gradual and organic transition from the open countryside, including the appeal site, to the built-up area of the village which contributes positively to the overall rural character of the area.
20. I acknowledge that the site is subject to the influence of the built development off Moor End and on Bower Lane, but given the fall in levels from Bower Lane to Moor End, and intervening vegetation, both clusters of development are not seen clearly together. Rather, I saw the site to form a continuous part of the wider countryside extending expansively to the east, with views from Bower Lane taking in the appeal site, the open countryside and the chalk escarpment beyond. Given this, I do not share the view of the appellants' LTN that the site is physically and visually separate from the wider rural agricultural landscape. Rather, it is representative of the landscape character, particularly as an area of pasture near a settlement, and is influenced strongly by the open, agricultural landscape to the east.
21. The indicative plans show a suburban style layout of estate roads and cul-de-sacs at relatively low density, with extensive areas of planting and open space. Whereas development on Bower Lane is no more than one property deep and tapers out on leaving the village, the development would extend several properties deep into the site and would create a broad, abrupt and harsh urban

edge which would be seen clearly from Bower Lane, Harling Road and from the public footpath. I acknowledge that the site would make use of the existing field boundaries and that proposed boundary buffer planting would, in time, create a softer edge to the development. However, the proposal would still be a significant and conspicuous extension of the built form into the open countryside where there presently is none, in conflict with the prevailing character of open agricultural land and small, contained villages.

22. I accept that in longer views, such as from the Dunstable Downs, the development would be seen in the context of the existing built up areas of Eaton Bray and Edlesborough. However, the scale of the development would erode the open and natural character of the site and would result in the loss of characteristic pastureland of the area. This loss would have a significant adverse effect on the experience of the site for surrounding residential receptors and recreational users of the public footpath whose outlook over undeveloped fields would be irrevocably changed. Even allowing for a sympathetic layout and mitigatory landscaping, the close visibility of the dwellings from all sides means that these receptors would experience a large, suburban form of development at close range which would be at odds with the rural surrounds. Even in the longer term, landscaping would be insufficient to mitigate the permanent change to the character of the site which would remain adverse for close visual receptors on Bower Lane, Harling Road, the public footpath and the dwellings off Moor End.
23. Furthermore, the development would require the removal of the roadside hedgerow along the length of the site boundary on Bower Lane to accommodate proposed widening and realignment of the carriageway, provision of traffic calming measures, and extend footways. Though the hedgerow may be replaced or translocated further into the site, it would require time to re-establish itself. More so, however, it would result in a more expansive road corridor, which together with the precise, engineered appearance of the proposed highway works, would result in Bower Lane becoming distinctly more urban in appearance, which would further conflict with the rural surroundings.
24. For these reasons, I find that the proposed residential development and highway works to Bower Lane would significantly harm the character and appearance of the area. Accordingly, there would be conflict with the aforementioned requirements of saved Policy BE8 of the LPR. Furthermore, the proposal would result in development of a defined Local Gap in conflict with Policy EB8 of the NP, and conflict with the Framework which seeks recognition of the intrinsic character and beauty of the countryside and that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Loss of Agricultural Land

25. Some 85% of the site, or 6.4 hectares, is Grade 2 and 3a best and most versatile (BMV) agricultural land². Though not all of this would be built upon, it would all be lost as workable land. The Framework requires recognition of the economic benefits of BMV land, with Footnote 53 referring to, but not defining, 'significant development of agricultural land'. In this case the overall amount of

² 7% Grade 2 and 78% Grade 3a, per the appellants' Updated Agricultural Land Classification and Soil Resources document (September 2019).

land lost, particularly the better quality land at Grade 2, would not be significant, whilst sizeable parts of the site would be retained for landscaping. Moreover, I am not aware that the loss of the land would result in an agricultural enterprise becoming unviable. Given these factors, I find that whilst the loss of BMV land would result in economic harm to the local economy, this would be limited in scale.

Other considerations

Provision of Housing

26. The Council indicates that it can demonstrate a five year supply of deliverable housing land, a position which is not challenged by the appellants. I have had regard to the appellants' references to the projected housing requirements and distribution of development within the emerging CBLP which seek to demonstrate the greater levels of housing which will be required in the Council's area, including addressing unmet need from Luton and the contribution expected of villages such as Eaton Bray. However, the main parties ultimately agreed at the Hearing that the weight to be attributed to the emerging plan at this stage is limited, in view of the extent of further work required of the Council by the examining Inspectors.
27. Thus, in light of the Council's five year housing position at the time of the Hearing, and the recent Housing Delivery Test results which shows delivery at 103% over the past three years, the proposed housing would not be essential to address a shortfall or past under delivery, but I accept that the proposal would still assist in meeting targets and should be afforded moderate weight.
28. In addition, the appellants propose that 50% of the dwellings would be affordable housing, in a 72%/28% split between social rented and shared ownership. This would considerably exceed the Council's requirement of 30% affordable housing provision set out in its Affordable Housing Guidance Note for Central Bedfordshire (South Area) (2018) (the AHGN). The AHGN indicates that it supersedes the requirements of saved Policy H4 of the LPR, which is accordingly out-of-date per Paragraph 213 of the Framework and is of limited weight. 15% of the overall dwellings would also be constructed to adaptable standards and made available initially to persons aged over 55, which would accord with the requirements of saved Policy H3 of the LPR that developments contribute to meeting the needs of the elderly. The appellants seek to secure these provisions through the submitted UU.
29. I heard from the Council that several large sites are under construction within several miles of the appeal site, at Houghton Regis and Leighton Linlade, where several thousand homes either have planning permission or have already started construction, with significant provision of affordable housing amongst them. Conversely, I heard from the appellants that no affordable housing has been provided in Eaton Bray for at least 20 years, and that there are considerable numbers of people on waiting lists for housing in the village. Ultimately, I have limited evidence to either verify the Council's figures for the other sites or to support the appellants' claims in these respects, and so these arguments are not determinative.
30. The Council's evidence does indicate, however, that affordable housing delivery has slightly exceeded the requirements from 2015/16 to 2018/19. Nonetheless, the Framework makes clear that the needs of groups with specific housing

requirements should be addressed. In light of this, the provision of up to 60 affordable home would a demonstrable benefit of the scheme addressing an identified need which should attract significant weight in the planning balance. The provision of adaptable housing is a further benefit, though given its scale, this would attract limited weight in favour of the proposal.

Retention of Orchard/Provision of Open Space

31. The existing historic orchard would be retained and preserved as part of the development, though this is already subject to a tree preservation order. An area of public open space would be created next to this which would add to the recreational facilities of the village. However, it was established at the Hearing that the orchard itself would not be publicly accessible, given the need to protect the trees and encourage biodiversity within it. I also heard concerns from interested parties in relation to potential adverse effects of indiscriminate parking on the narrow residential cul-de-sac of Moor End Lane by future users of the public open space and the health and safety implications of having a pond within the space. However, given the outline nature of the proposal, and the size of the appeal site, there appears to be reasonable scope to incorporate parking within the site if necessary. In terms of the pond, I have little tangible evidence to suggest this would pose any greater threat to health and safety than the ponds and lakes found in parks all across the country.
32. However, whilst the open space would be an undoubted benefit for prospective residents of the development, the rural surroundings of Eaton Bray, including the nearby Dunstable Downs, as well as the attractive open space and facilities of Edlesborough village green a short distance away already provide ample outdoor recreational opportunities for existing residents. As such, I find that the provision of public open space and retention of the orchard, whilst benefits of the scheme, would attract limited weight in favour of the proposal.

Highway Improvements

33. The appellants advance that the highway works proposed would provide significant improvements to a potentially substandard road along Bower Lane. However, the appellants' own transport statement (TS) found that the highway network serving the site generally operates safely. There is no substantive evidence that there is an existing problem with the operation of the highway along Bower Lane which would be resolved by the proposed works.
34. Rather, they would largely address the impact of the development itself. I was informed at the Hearing that the introduction of a curve in the road is in order to achieve sufficient sightlines for one of the proposed access points. The extension of footways on Bower Lane would be primarily for the use of prospective residents of the development and a limited benefit more widely, considering all of Bower Lane already benefits from a footpath on at least one side, albeit it is slightly substandard in width in places. I accept that the proposed roadside parking areas would help to address some existing issues with parked vehicles blocking one side of the road, but given that priority chicanes are also proposed, the situation of vehicles giving way to others would still exist.
35. I recognise that local residents have raised concerns over parking and congestion; however, the Council has not disputed the conclusions of the TA that the development's generation of an additional 1 vehicle movement every

1½ minutes at peak times would not be significant. I have no evidence to contradict this and thus I find that the development would not cause harmful levels of congestion or increase risk to highway safety. However, the benefits the proposed highway works would deliver in terms of highway safety and traffic flow would be insignificant, and would attract limited weight.

Provision of Footpaths and cycle links

36. The proposal includes provision of footpaths through the site, connecting to the existing public footpath to the eastern boundary, to Bower Lane and to Moor End Lane. As with the public open space, there would be value to prospective residents in enabling access to the wider public footpath network and through to Edlesborough, though such connectivity would be expected of any large housing scheme. For the wider public, I find there would be limited value in providing footpath links through the development, as for most people they would not provide a shorter or more direct route between Eaton Bray and Edlesborough compared to travelling along Moor End or taking the existing public footpath. As such, whilst a benefit, I afford the provision of footpaths and cycle links limited weight in favour of the scheme.

Green Infrastructure and Biodiversity

37. The appellants posit that there would be enhancements to green infrastructure, including to hedgerows, along with the planting in the public open space and landscape buffers to the boundaries of the site. The landscape buffers are proposed in large part to provide visual softening to the development, but I recognise that they would, in time, add to the extent of natural vegetation within the site. However, the extent of housing and significant removal and replacement of hedgerows proposed means that the green infrastructure would in large part be required as mitigation for the impacts of the development.
38. The appellants' Ecology Strategy also sets out a number of proposed measures intended to enhance the extent and quality of biodiversity on the site. Whilst I acknowledge the appellants' point that existing on-site habitats are currently unmanaged and are species poor in their composition, the proposal would in large part be required to offset the environmental impact of the proposed development, including removal or relocation of hedgerows.
39. In addition, it was raised at the Hearing that there would be pressure on any new biodiversity measures from human and domestic pet presence within areas of public open space and the wider site, though I have little evidence to substantiate the degree to which this would curtail the effectiveness of the proposed enhancements.
40. It is nevertheless a requirement of the Framework that developments minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Given this, and the degree to which the proposed measures would provide mitigation for impacts of the development, I afford green infrastructure and biodiversity enhancements limited weight in favour of the proposal.

Sustainable Drainage

41. The provision of sustainable drainage measures is a requirement of the Framework. The evidence before me does not indicate that the proposed measures, including the balancing pond, would do any more than mitigate for

the impacts of the development. I regard this as a neutral factor in the planning balance.

Economic Benefits

42. There would be economic benefits associated with the construction of the dwellings and from use of local services by future occupants, though given the limited number of village services, and the temporary nature of construction works, such benefits would attract limited weight in favour of the proposal.

Effect on local services

43. Interested parties at the Hearing raised issues of lack of capacity at local services including the doctor's surgery and school. I recognise these are genuine concerns for residents, and the Council acknowledges in its evidence that there are capacity issues at surgeries in Dunstable. Ultimately, it is not for a development to resolve existing problems but to suitably mitigate its own impacts. To this end, the Council has set out its requirements for financial contributions to address the impact of the development on local infrastructure, which the appellants have sought to address through the UU.
44. The signed UU makes provision for the delivery of the proposed affordable and adaptable housing in accordance with the Council's preferred ratios, and would secure financial contributions in relation to the provision of nursery, primary and secondary education, healthcare and upgrading the existing play area at Eaton Bray Recreation Ground. I am satisfied that each sought obligation meets the three tests set out in Paragraph 56 of the Framework for planning obligations. As a result, I have taken the completed UU into account; however, apart from the benefits of affordable and adaptable housing already identified, the other provisions are required to mitigate the impact of the development and are neutral considerations in the planning balance.

Other Matters

45. I have had regard to a number of Council and appeal decisions referred to me relating to proposed developments in Central Bedfordshire and/or within the Green Belt. I do not have full details of the evidence before the decision makers in these cases, but whilst I note some similarities in the nature of the other proposals, there are also differences in site circumstances, housing supply positions and policy contexts between these and the appeal now before me, particularly where they relate to another local authority area, which limits the weight I place upon them. Ultimately, the apportionment of weight to particular harms and benefits is a matter for the decision maker in each case, and accordingly I have considered this appeal on its own merits.
46. I have had regard to other concerns raised by interested parties both at the Hearing and in writing, beyond those I have already addressed. Ultimately, the Council does not oppose the proposal on grounds other than those set out in the main issues, and taking account of the evidence before me, I have not identified other matters of such significance as to result in further benefits or harms to be factored into the planning balance.

Planning Balance and Conclusion

47. The proposal would amount to inappropriate development as set out in the Framework, which is, by definition, harmful to the Green Belt and should not be

approved except in very special circumstances. In addition, the proposal would lead to a significant loss of openness to the Green Belt. The Framework directs that substantial weight should be given to the harm to the Green Belt. There would also be significant harm to the landscape character of the area and limited harm from the loss of BMV agricultural land. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are *clearly* outweighed by other considerations (my emphasis).

48. As explained, I give weight ranging from little to significant to the other considerations advanced by the appellants and in the wider evidence, but I find that, cumulatively, these would not clearly outweigh the totality of harm the scheme would cause. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
49. Notwithstanding the Council's five year housing land supply position, the Council accepts that saved Policy H4 of the LPR is a policy most important for the determination of the appeal³, and is out-of-date per the AHGN. In this scenario, Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted unless application of policies in the Framework that protect areas or assets of particular importance provided clear reasons for refusing the development proposed. Green Belt is one such area or asset and, given my findings, the proposal would not amount to sustainable development and the presumption in favour does not therefore apply.
50. There would be general compliance with the thrust of saved Policy H4 given the extent of affordable housing to be provided, but this policy is of limited weight and given the conflict I have found with saved Policy BE8, and Policy EB8 of the NP, to which I afford significant weight, there would be conflict with the development plan taken as a whole. In addition, the Framework is an important material consideration which does not indicate that permission should be forthcoming other than in accordance with the development plan.
51. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR

³ Statement of Case, Para 4.3

APPEARANCES

For the Appellants:

Zach Simons	Barrister, instructed by the appellants
Duncan Mason	Optimus Consulting
Natasha Abbott	Optimus Consulting

For the Local Planning Authority:

Philip Hughes MRTPI	Planning Consultant
Julia Scott CMLI	Landscape Officer

Interested Parties:

Julia Brewer	Chairperson, Eaton Bray Parish Council
John English	Campaign to Protect Rural England (Bedfordshire)
Matt Geldart	On behalf of a local community group
Louise Follett	Pegasus Group on behalf of Willis Dawson Ltd
Philip Spicer	Ward Councillor, Central Bedfordshire Council
Dominique Lloyd	Local resident
Paul Atkins-Marr	Local resident
Mark Ellis	Local resident
Adrian Roberts	Local resident
Ross Bagni	Local resident
Mike Makin	Local resident
Mary Walsh	Local resident
John Wilkinson	Local resident
Frederick Baynes	Local resident
Richard Cooper	Local resident
Jean Marquis	Local resident
Peter Barraclough	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Updated draft copy of unilateral undertaking from appellants
2. Copy of appeal decision APP/N0220/A/89/114305, dated 20 October 1989