



Appeal Decision

Inquiry held on 25-28 February 2020

Site visit made on 26 February 2020

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

an Inspector appointed by the Secretary of State

Decision date: 16th April 2020

Appeal Ref: APP/K0235/W/19/3240091

Land to the east of Oakley Road, Bromham, M43 8HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Landcrest Developments Ltd against Bedford Borough Council.
 - The application Ref 18/02671/MAO, is dated 18 October 2018.
 - The development proposed is an outline application for a residential development of up to 80 dwellings and ancillary works to include access, infiltration basin, open space and landscaping with all matters reserved except access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

1. 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 an Illustrative Sketch Plan 17744/1003C, showing the proposed areas for housing, flood attenuation and landscaping. Given that 'layout' is a reserved matter I have treated the drawing as purely illustrative.
2. The appeal was lodged following the Council's non determination of the application. The Council resolved on 25 November 2019 that if they had been in a position to make a decision they would have granted planning permission.
3. However, on 16 January the Council adopted the Bedford Borough Local Plan (LP2030). A duplicate application, 19/02709/MAO, submitted on 5 December 2019 was withdrawn by the applicant on 24 February, the day before the start of the Inquiry, and on the same day the Council made a new resolution on the original application, (18/02671/MAO), the subject of this appeal, that if they had been in a position to make a decision they would have refused it for reasons related to the proposal's location and character and appearance.
4. A completed planning obligation under Section 106 of the Town and Country Planning Act has been provided. This makes provision for 40% of the proposed housing to be affordable with additional financial contributions to the Council's capital budget for the proposed CCTV in the village to be extended along Oakley Road, health care and the layout and funding of the management of public open space within the site.

Main Issues

5. The main issues in this appeal are:

- Whether the location of the proposed development would be acceptable having regard to local and national policies and the Council's housing land supply and affordable housing position, and
- The effect of the proposed development on the visual and landscape setting of Bromham and the character and appearance of the area.

Reasons

Policy Background

6. 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. The development plan is the Bedford Local Plan 2030 (LP2030). 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 development plan, unless material considerations indicate otherwise.
7. For the purposes of this appeal the new local plan, LP2030, is 'recently adopted,' as defined by the Framework 2019¹. The adoption of the plan marks a new chapter in the evolution of the Borough's planning policies. I regard the Council's earlier resolution of 25 November 2019, made against a policy context, deemed as 'out of date' because of its 3.01² years housing land supply, resulting in the application of the 'tilted balance', as being in a past chapter of the Council's recent planning policy history.

Location of the proposed development

8. Bromham is identified as a key service centre in the LP2030 due the range of services it provides. There is no dispute between the parties on this point. The settlement is an appropriate location for new development.
9. The LP2030 is underpinned by a settlement strategy which requires that in key service centres the location of new development is determined through Neighbourhood Development Plans (NDP). As part of initial work for the Bromham plan (BNDP) the appeal site was considered through the 'call for sites' process but was rejected. The BNDP is now at consultation stage and identifies 3 housing sites on the edge of the village with the bulk of the proposed housing located on 2 sites on its western edge adjacent to the A428. Although the responses have yet to be assessed from the consultation and the results put to a referendum, the current draft of the emerging BNDP indicates preferred locations for future development which do not include the appeal site. However, given its state of preparation I accord the BNDP only limited weight.
10. The range of services which define Bromham's position in the Borough's settlement hierarchy are located in several clusters in the south and western part of the village. The nearest cluster to the appeal site, accessed via Molivers

¹ Foot note 38 of NPPF 2019

² Statement of Common Ground December 2019

Close, includes a local shop with Post Office, doctors surgery and fish and chip shop. There are 3 other clusters which include a car dealership including a petrol station with an ATM and in a separate cluster a small supermarket sandwich shop. A further cluster includes the village hall, a nursery and a primary school.

11. The appeal scheme includes an extension of the existing footway to connect to the proposed footway adjacent to the proposed site access point. Despite this modification, access from the appeal site to each of the service clusters would be constrained by the lack of dropped kerbs to facilitate movement for people who have either mobility difficulties or parents with children's pushchairs, the lack of dedicated crossings (this is critical given the lack of footways on both sides of local road) and the availability of footways of sufficient width to enable safe and easy access.
12. From my unaccompanied site visit, I noted that the shop and services in Moliver Close are about a 14 minute walk or 1.2km³ from the entrance to the appeal site via the short cut through Manor Close. This in itself, is not ideal because the range of services are limited and the shortcut includes a sharp dog leg which could raise issues of personal safety for vulnerable users. This distance is in excess of the published guidance in Manual for Streets (MFS)⁴ which advises that 'walkable neighbourhoods' are typically characterised by having a range of facilities within 10 minutes walking distance which residents may access comfortably on foot.
13. For residents of the new scheme, access to these shops would be difficult because of the topography which could result in difficulties if walking with young children and/or a full shopping load. This would be exacerbated if they sought access to the other clusters of services which lie further away. Given the high proportion of affordable housing units it is likely that a greater proportion of residents would depend on walking. In these circumstances it is even more important that access to services by sustainable modes is optimised through a very good walking environment.
14. Furthermore, the site is not well located in relation to the village's only regular hourly bus services which connect to the main centres of Bedford and Northampton where a full range of services could be obtained. The nearest bus stop to the site, on Orchard Close, served by the No 41 service, can be accessed via Manor Close and the shortcut. This is just about 900m from the site, around a 10 minute walk. Whilst only 1.3% of Bromham's residents commute by bus⁵ it is unlikely that the location of the site so far away from the No 41 service, would tempt residents of the proposed scheme to commute in this way. This would lead to additional car movements through the village. The 2 largest housing sites included in the Bromham BNDP are located within 800m of bus stops. Whilst there are other bus services these are not regular, operating as school services only or on specific days of the week.
15. There would appear to be no dedicated cycle routes on the roads through the village to services. This demonstrates the difficulties of planning for sustainable modes in Bromham but contrasts the location of the appeal site with those

³ CD1.11 paragraph 4.4

⁴ Appendix 1 Highway Rebuttal

⁵ CD1.11 paragraph 4.11

- included in the emerging neighbourhood plan which have relatively good access to the cycle route along Stagsden Road which links the village to Bedford.
16. The location of the nearest services to the site is greater than 800m which the Manual suggests. The guidance suggests that journeys of under 2kms provide the best opportunity for people to walk instead of using the car but this is based on an assumption that there would be ease of movement for pedestrians which would encourage them to cycle or walk for local journeys. This is not the case with the appeal site given its location, local topography and the physical constraints which include the lack of dropped kerbs at key points.
 17. Whilst these issues may be common to other parts of the village it demonstrates the importance of planning for new development in more sustainable locations. The site's location would be likely to result in additional car journeys than those preferred in the BNDP. It is for this reason that the site was not allocated in the BNDP⁶. In these circumstances the site's physical constraints which would heavily dictate modal choice are unlikely to be overcome by the proposed Green Travel Plan, submitted with the application. This relies on the infrastructure already being in place to enable sustainable modes being regularly used.
 18. Policy 3S of LP2030 provides the overarching strategic framework for the Plan, predicated on the principles of sustainable development. This is broadly consistent with the National Planning Policy Framework since 2012 (the Framework). These principles are designed to support the delivery of all new development across the Borough. This policy is supported by Policy 4S which identifies the extent of proposed growth in Bromham as a key service centre where site allocation will be identified through Neighbourhood Development Plans. The location of the appeal site lying beyond the Settlement Policy Area (SPA) would undermine this settlement strategy. Whilst I acknowledge that policy 4S allows for development in an around defined SPA boundaries, I conclude on this aspect of this main issue that the principle of large scale development at the appeal site, for the reasons as stated above, would be contrary to the strategic framework of the LP2030.
 19. Furthermore, Policy 51S underpins the Council's recent declaration on the climate change emergency and acknowledges a need for a sustained modal shift. Policy 53 (i) requires that development should be located and designed to provide convenient access to local services by foot, cycle and public transport. The location of up to 80 dwellings on the appeal site would not meet the requirements of these policies.
 20. Furthermore, the Framework (2019) advises that the purpose of the planning system is to contribute to the achievement of sustainable development and promotes a choice of transport modes. Whilst accepting that paragraph 103 of the Framework indicates that design solutions to achieve this may vary depending on a site's rural or urban location, I conclude on this main issue, that the proposals would be contrary to the adopted policies 51S and 53(i) of the LP2030. This is a matter to which I attach significant weight.

⁶ Ms Duncan Proof of Evidence

Character and appearance

21. There are two related aspects to this main issue. The first addresses the impact of the proposals on the setting of Bromham and the second on the impacts on the wider landscape.
22. The appeal site is located beyond the northern edge of Bromham outside but adjacent to the SPA and comprises an area of approximately 3.6ha of arable farmland. The site is bounded on each side by hedgerows. These features are characteristic of National Character Area (NCA) No.88 Bedfordshire and Cambridgeshire Claylands within which the site lies.
23. The Borough Landscape Character Assessment (2014) identifies the appeal site as lying on the western side of Area (LCA) 3B Oakley and Great Ouse Limestone Valley. LCA2B lies to the west of Oakley Road. Relevant development guidelines for LCA3B identify the importance of settlement edges to maintain separation between settlements or where edges form an unsympathetic relationship to the open countryside. Critically the appeal site lies on an area of land which falls gently across a broad spur above the valley of the River Great Ouse. The site does not fall within any statutory landscape designations or 'valued' landscape as defined by paragraph 170 of the Framework.
24. From the historic plans submitted with the appellant's landscape statement Bromham's development has been characterised by fingers of development extending along the principal roads which were subsequently backfilled. Although it does not have a nucleated centre the coalescence of the village has occurred to the south and west which now extend towards the A428, Bromham bypass well away from the appeal site. This has left the properties along the northern edge of Oakley Road as an outlying finger of development which extends into the countryside, well beyond the settlement's northern limit defined by Woodland Drive, Manor Close and Lower Farm Road. The site lies outside but adjacent to the SPA of Bromham as identified by policy 4S.
25. In this context the introduction of a large development of 80 dwellings would result in an extension of the whole settlement northwards. It would adversely affect the setting of Bromham by breaking with the village's rural context in this location which is still framed by surrounding arable fields.
26. Turning to the wider landscape and visual impacts of the scheme, my site visits identified that views of the appeal site are restricted from the east and north because of the topography and features characteristic to LCA3B such as hedgerows which are interspersed with mature trees. Any residual visual impacts from the development could be further mitigated through additional planting as indicated on the illustrative drawings and addressed at reserved matters stage⁷.
27. Those receptors which would experience most impact would be the houses along Oakley Road and New Farm Road from where the site would be easily seen from their first floor side and rear windows. The appellant's evidence identifies that views from these receptors would be mitigated by the landscaped boundary treatment and loss of the pylon. However, this

⁷ Plan 17744/1003D

'improvement' has to be set against the visual impacts of 80 homes which could not easily be mitigated through landscaped boundaries and the 2 'terminal' pylons required to enable the undergrounding of the powerline but which are larger than the existing and which would be clearly visible.

28. Given the proposed development's size and location, it would also be seen from the footpaths to the west where the landscape impacts would be experienced from the footpaths including the well used BR010B and given the rise in land, from Bridleway BRO7A; this latter route also doubles as a designated footpath, the John Bunyan trail. There would be long term visual effects on the views experienced by people using these routes.
29. The proposed scheme would be clearly seen as an intrusion into the countryside at this point, extending beyond the existing houses along Oakley Road. It would serve to undermine the pattern of development of Bromham which is clearly defined by the rear of properties in Woodland Drive and Manor Close. Although landscaping could be introduced to lessen the impact, as indicated on the sketch scheme, the sense of a large development intruding into the open countryside would remain. I acknowledge that distant views from points in Clapham, to the east would be limited and thus there would be no harm arising from these views.
30. For these reasons, the landscape impact of new development on this site can be contrasted with the Lower Farm appeal site⁸ where the appeal site was located between properties on Lower Farm Road, Oakley Road and a collection of agricultural buildings to the east of the site. In the case of this appeal, the impact of the proposed development would be less contained and would detract from views from receptor points resulting in harm to the landscape.
31. Whilst the proposals would result in the loss of a pylon within the appeal site, requirements for undergrounding of the lines would necessitate the two adjacent pylons to be significantly altered into 'terminal pylons' which are of a bulkier design⁹. Although these changes would be permitted development¹⁰ they would result from the implementation of the appeal scheme. Their potential impacts on the landscape would be far greater because they are large and discordant structures which would contrast with the regular spacing of the uniform pylons which create their own pattern.
32. Policy 7S identifies that for new development to be acceptable outside SPAs it has to be in accordance with other policies in LP2030. The policy includes an overriding requirement that new development should recognise the intrinsic character and beauty of the countryside and not result in other impacts which would adversely impact on the use and enjoyment of other users. The scale of the appeal scheme would not be in accordance with the other policies referred to in Policy 7S and fails the overarching considerations identified in this policy.
33. Additionally, the appeal scheme would not comply with policy 28S (ii) in not having a positive relationship with the surrounding area or integrating and complementing its local character. For these reasons I conclude on this main

⁸ CD 9.14APP/KO235/W/17/316566

⁹ ID.16

¹⁰ SI 2015 No.596 Part 15, Schedule 2, Class B

issue that the proposed scheme would result in harm to the landscape setting of Bromham and the character and appearance of the wider area.

Planning Obligation

34. 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 Regulations 122(2) set out 3 tests for 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.
35. A Community Infrastructure Levy compliance statement submitted by the Council concludes that the obligations meet the tests of the Framework and CIL Regulations. However, as I am dismissing the appeal for other substantive reasons, with the exception of affordable housing, it is unnecessary for me to consider this matter further.

Planning Balance and Conclusions

36. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2019) places considerable emphasis on sustainable development and highlights the delivery of new housing as a national priority. The LP2030 is a recently adopted plan. It sets a new framework of policies and a new housing requirement.
37. At the Inquiry, I heard a considerable amount of evidence on the matter of housing land supply and housing requirements. However, dispute remains between the parties over whether the Council is able to demonstrate a five-year supply of deliverable housing sites. The Council says its supply is 5.75 years and the appellant argues it is slightly over 4 years.
38. Whilst the Borough is the subject of considerable development pressures, principally arising from its location within the nascent Oxford-Cambridge Growth Arc where 1 million new homes are proposed before 2050, these pressures have not been quantified in any detail. It would seem partly in response to these pressures that the Examining Inspectors suggested a Main Modification to Policy 1 requiring a plan review within 3 years of adoption. This review would be the appropriate forum to assess the Borough's housing requirements, which may, in 3 years time, be informed by a clearer understanding of the spatial implications of Government policy for the Arc. It would be wrong to prejudge this situation for the purposes of this Inquiry. In this respect I draw a distinction between the circumstances in the Bromley decision¹¹ where the detail of the revised draft housing requirements, included in the emerging London Plan for the borough were known at the time of the Inspector's decision.
39. The appellants identify that within the Council's 5YHLS¹² only 27% of new dwellings would be 'affordable' compared with policy requirements of 30%.

¹¹ CD 9.12 APP/G5180/W/18/3206569

¹² Mr Pycroft rebuttal

However, close inspection of the dates when these permissions were negotiated indicates that these permissions are in some cases 15-20 years old when the Council would have very probably been negotiating applications in the absence of up to date policies; this is no longer the case.

40. Furthermore, the confirmation of the 5YHLS and the HDT of 129% is indicative of a buoyant housing market and provides confidence that the new housing, identified in the trajectory, would be delivered. This would have a greater chance of being policy compliant in delivering on the numbers of affordable homes required compared to the Council's past performance. Again, to my mind, the appellant's suggestion that the Council would continue to under deliver affordable housing provision reflects a legacy of not having up to date policies.
41. I have reviewed the range of appeal decisions referred to me on this matter by the appellants¹³ which indicate decisions in favour of appeal proposals despite a 5YHLS position. Many of these decisions predate the inception of the HDT and the current Framework which now provide effective policy tools to inform and direct housing growth to deliver on the Governments objectives. In other decisions the alleged harm was insufficient to outweigh the merits of the proposal. Whilst I acknowledge that the 5HYLS figures are not a ceiling these are factors which distinguish this case from those cited by the appellants.
42. I acknowledge that the provision of more housing including affordable would provide social benefits of the appeal scheme and they carry positive weight in its favour. There would also be economic benefits arising from new construction jobs and from the potential spend of the scheme's occupants in local shops. These benefits also carry weight in favour of the appeal scheme. I regard the measures (other than those which address affordable housing) included in the Section 106 agreement as having a neutral effect as they are required to mitigate the impacts of the development.
43. Underpinning the LP2030 is a settlement strategy which recognises that outside Bedford and several other planned settlements, key service centres which include Bromham will take an additional 2000 dwellings. Whilst the principle of new development in Bromham is consistent with adopted policy, I find substantial harm with the location of the appeal scheme for this type of development which would not enable adequate access to shops and services by sustainable modes. This would lead to additional traffic generation. This point alone undermines the purported benefit of the scheme, that is, the inclusion of 32 affordable homes, to which the appellant ascribes 'very substantial weight'. This location could compound the economic challenges faced by the future occupants of these 32 dwellings who by reason of their position in the housing market are likely to be experiencing economic disadvantage.
44. Furthermore, I find that there would be harm in landscape terms arising from the appeal site's location on the edge of Bromham. The proposed development would extend Bromham northwards. This can be contrasted with the Lower Farm Road appeal site which would have been enclosed on two sides by existing development and would have been less visible from receptor points. In contrast the appeal site would be clearly visible from key receptor points in a rural location.

¹³ Ibid paragraph 7

45. Set against these issues, whilst I acknowledge the importance of the provision of an additional 80 new dwellings, this is not critical in this instance given the Council's trajectory and the indicative housing proposed in neighbourhood plans for other key service centres which I understand are advancing towards adoption. Whilst I accord the provision of an additional 32 affordable dwellings significant weight this is not in my opinion sufficient to outweigh the harm which would result from the site's location for its occupants and the impact on the landscape setting and character and appearance of the area.
46. Paragraph 12 of the Framework allows decision makers to depart from an up to date development plan where material considerations would allow. From the above I find that the proposal conflicts with the development plan as a whole and I do not find that there are material considerations to warrant a departure. Accordingly, I conclude that the appeal scheme is contrary to policies 3S, 4S, 7S and 28S (ii), 51S and 53(i) of LP2030. For these reasons the appeal is dismissed.

Stephen Wilkinson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Simon Bird QC of Counsel instructed by David Doorne, Borough Solicitor

He called:

Mr Scott Lawrence BEng (Hons) ORS Consultants

Ms Carolyn Barnes BA MPhil, Bedford Borough Council

Ms Rachel Duncan BA (Hons), Bedford Borough Council
Dip TP, MRTPI

Mr Geoff Saunders BA Bedford Borough Council

FOR THE APPELLANT:

Mr Christopher Young QC of Counsel instructed by Mr Russel Gray of Woods Hardwick

He called:

MR John Freeman MEng, CEng, Woods Hardwick
MICE, MCIHT

Mr James Stacey Dip TP, Tetlow King
MRTPI

Mr Ben Pycroft BA (Hons), Emery Planning
Dip TP, MRTPI

Mr Russel Gray BA(Hons), Woods Hardwick
Dip UP, MRTPI

Mr Alastair Field BA (Hons) Reading Agricultural Consultants
MSc, PIEMA, MBIAC, MI Soil Sc

Interested Parties

Ms Sian Woodfine Chair of Bromham Parish Council and member of
Neighbourhood Planning Group

Mr John Bennett Local Resident

Mr Paul Jenkins Campaign to Protect Rural England

ADDITIONAL DOCUMENTS PRESENTED DURING THE INQUIRY

ID.1 Opening Statement on behalf of the Appellant

ID.2 Opening Statement on behalf of the Council

ID.3 BBC Briefing: Housing

ID.4 Note to Inquiry from Mr John Stacey

ID.5 Representations from Ms Woodfine of Bromham Parish Council

ID.6 Representations from Mr Jenkins of the Council for the Protection for Rural England

ID.7 Representations from Mr J Bennett

ID.8 Email dated 21/2/2020 re FOI request on Housing data

ID.9 Summary note from Mr Scott Lawrence dated 26 February 2019

ID.10 PPG extract on Housing and Economic Land Availability Assessment (superceded)

ID.11 Planning permission and Section 106 agreement for redevelopment of Putnoe Lower School 16/01520/MAF

ID.12 Report to Planning Committee on application 18/02671/MAO dated 24 February 2020 and report on withdrawn application 19/02709/MAO

ID.13 Letter from Woods Hardwick to Bromham Parish Council dated 26 April 2018

ID.14 Letter from the Rt Hon. James Brokenshire MP, Secretary of State to Ms Sarah Richards CEO of the Planning Inspectorate dated 18 June 2018

ID.15 Bedford Borough Council, Core Strategy and Rural Issues - extract 2008

ID.16 Photographs of pylon terminal and cables

Documents sent on after the Inquiry closed

ID.17 Closing submission from the Council

ID.18 Closing submissions from the Appellant