



Appeal Decision

Inquiry held between 25 February and 28 February 2020

Site visit made on 12 March 2020.

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 27 April 2020

Appeal Ref: APP/Y0435/W/19/3234204

Rectory Farm, Woburn Sands Road, Bow Brickhill, Milton Keynes MK17 9JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Gill (Gill Hudson Homes Ltd) against the decision of Milton Keynes Council.
 - The application Ref 18/01372/FUL, dated 18 May 2018, was refused by notice dated 7 June 2019.
 - The development proposed is demolition of 2 no. outbuildings to create access and construction of 28 no. 2, 3, 4, and 5 bedroom residential dwellings and all ancillary works at Rectory Farm, Woburn Sands Road, Bow Brickhill, MK17 9JY.
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Decision

1. The appeal is dismissed.

Preliminary/ procedural matters

2. Prior to the Inquiry it came to my notice that there were some inconsistencies with the plans, with particular reference to Plot 17. These were addressed by the appellant and amended copies provided to all relevant parties. Following the Wednesbury principles, no parties were prejudiced by my acceptance of the amended plans: PL-16- A3, PL-17 A3- dated February 2020.
3. The fourth reason for refusal relates to the failure to provide any financial contributions to offset the impact of the development. However, prior to the Inquiry I was provided with an executed Unilateral Undertaking (UU) relating to the provision of affordable housing, education facilities, leisure recreation and sports facilities, social infrastructure requirements, carbon neutrality requirements and the promotion of public transport. The Council considers this UU to have overcome this reason for refusal. I refer to this elsewhere in my decision letter.

Main Issues

4. From what I have seen, read and heard I consider the main issues in this appeal are: a) whether the proposed development would be consistent with the settlement strategy of the development plan; b) the effect of the proposed development on the character and appearance of the wider area; c) the effect of the proposed development on the living conditions of residents of no 59 Station Road, and future occupants of plot numbers 17 and 18, with particular

regard to overlooking; and d) whether the Council is able to identify a five year supply of deliverable housing land.

Reasons

Spatial Strategy

5. Bow Brickhill is a third tier settlement, as set out within the adopted Plan:MK 2016-2031, adopted 2019 (Plan:MK). The plan's strategy is that development is directed chiefly to Milton Keynes City, as well as the three key settlements of Newport Pagnell, Olney and Woburn Sands. Development at the villages and rural settlements such as Bow Brickhill, is permitted within defined settlement boundaries and in compliance with neighbourhood plans. In setting the hierarchy for the strategy for the distribution of growth within the Local Plan, matters such as access to public transport, including the availability of bus and train services at Bow Brickhill will have been considered.
6. As part of the recent review of the local plan, settlement boundaries have been updated¹, including that of Bow Brickhill. It is agreed between the parties that, with the exception of the access road, which lies within the up to date settlement boundary, the bulk of the appeal site lies within open countryside as defined by the Policies Map of Plan MK.
7. There is nothing within the adopted policy text which differentiates development which falls directly outside of a settlement boundary from that which sits some way off. The plan is explicit that all development outside of a settlement boundary is considered to fall within open countryside. Such a policy approach has been found sound through the recently adopted Plan:MK and I see no conflict with the 2019 version of the Framework, nor any evidence that the Council is implementing this policy as if it were equating this with a Green Belt policy.
8. Therefore the proposed development, with the exception of the access from Woburn Sands Road, sits outside the settlement boundary and therefore the proposed housing conflicts with the settlement strategy, set out within policies DS1, DS2 of Plan:MK. Moreover, as it falls within land defined as open countryside, and it is no part of the appellant's argument that it falls within any of the exceptions set out in policy DS5, it also conflicts with policy DS5.
9. My attention has been drawn to recent residential schemes which have been granted planning permission. However, the policy circumstances in which the schemes have been permitted differ to that of the appeal before me. For example, the Tilbrook Farm and original Blind Pond Lane schemes were permitted when the Council considered that it was unable to demonstrate a five year supply of housing. Moreover, the recently permitted schemes have been integrated into the village through changes to the defined settlement boundary. I am aware that the site known as Blind Pond Farm 2² whilst falling outside of the settlement boundary, mostly lies on land where the principle of development had been established through a previous outline permission.
10. There is no neighbourhood plan for the settlement of Bow Brickhill and in the short term, there appears to be little appetite or prospect of a neighbourhood

¹ CD5.7

² ID6

plan being made. However, this does not in itself undermine the development strategy as a whole, which is clear that development should be focused on Milton Keynes City, as well as the three key settlements, nor the application of the policy to the determination of the appeal before me.

11. In any case, notwithstanding the lack of a neighbourhood plan, a significant number of new dwellings already have permission to be built within the confines of the newly delineated settlement boundary of Bow Brickhill, with the potential for further development to the north of the access road to the site, and at smaller scale, on the recently permitted development at Blind Pond Lane. Consequently, the lack of a neighbourhood plan would not prevent additional housing being delivered within the confines of the settlement boundary at a scale consistent with the development strategy of the plan.
12. Therefore, I conclude that the appeal proposal as a whole does not accord with the distribution of growth set out within the settlement strategy of the local plan contrary to policies DS1, DS2 and DS5.

Character and appearance

13. The appeal site is made up of two elements, both of which are part of the same landholding. The first forms the eastern part of the site. At the time of my site visit, it appeared to be used, at a very low level of intensity, for the storage of goods relating to the building trade. This tract of land includes two buildings which are proposed to be demolished to enable an access linking the site to Woburn Sands Road. The second element is a large open field which, I understand from a photograph supplied by Mr Barrington³, was used as pasture. However, at the time of my site visit it appeared to have been ungrazed for some time, with extensive areas of overgrown brambles and tussocky clumps of grass.
14. The first element of the appeal site does not have any particular visual merit. However, the buildings which are proposed to be demolished to enable the access to be constructed are typical of those quasi agricultural buildings often found on the edge of rural settlements. As such, they appear in context with the neighbouring farm and equestrian centre, as well as the housing on Haynes Road and Woburn Sands Road. Therefore, their demolition would not result in a significant improvement to the street scene.
15. The open field sits close to the core of the village. Footpath (FP008) which I understand to be a well-trod route, skirts the southern, and part of the western boundary of the site. It is bound for a substantial part by the rear gardens of properties and a boundary with unmanaged hedging and remnants of the Greensand walling. Where this still exists, this is proposed to be renovated and integrated within the boundary treatment of the site. The footpath links the busy Station Road to the Sports Pavilion and playing fields to the north. Housing backs onto the walled footpath, with a mix of boundary treatments ranging from those which are suburban in nature and others which are more sensitive to the rural location. The garden of no 4 Edwin Close, together with the builders' yard forms the eastern boundary of the field. The northern extent of the appeal site is bound by a hedgerow leading to further hedged fields beyond. The buildings associated with Bellows Hill Farm are clearly visible from

³ID8

- the appeal site. However, they do not appear to enclose the field unduly or to undermine the wider rural aspect of the appeal site.
16. In common with much of the countryside, it is not open to the public or in use as recreational land. However, when walking along the footpath the relatively large field which gently slopes away from the village appears as part of the wider open countryside and has a recognisably rural character. This is not undermined by the fact that there are residential properties nearby, together with other built development including a Sports Pavilion. Indeed, countryside must at some point meet the edge of a settlement. Instances of outlying fields being cradled within a village are not unusual in rural settlements. However, it is not part of the Council's case that the gently sloping field displays any particular landscape characteristic, which would positively differentiate it from other areas of pleasant open countryside, a position with which I would concur. Nonetheless, the open field which sits close to the centre of the village has an attractive rural aspect and forms part of the wider countryside in which the village sits.
17. In contrast to nearby developments which are directly accessed off the main road running through Bow Brickhill, the proposed development would be accessed by a long road. As it stands, this would result in an isolated pocket of development some distance from the main road frontage. I am aware that in principle, it would be possible to develop the land fronting the access for housing and that at the time the application was determined there was an extant permission for five dwellings along the access.
18. The internal layout includes substantial elements of hardstanding and car parking, in particular at the rear of the site and in front of plots 21- 23, as well as in front of plots 1-3, where the off road parking appears to have been squeezed in at a tangent across the front of the plots. This results in an environment which is adversely dominated by hard surfaces, with little opportunity for soft landscaping and a street pattern which is indistinct. As part of my wider site visit, I was referred to areas of similar hardstanding within the new development at the Blind Pond Lane development. However, rather than giving me comfort, this demonstrated the importance of providing strong layouts, such as that at Greenways, and including adequate levels of landscaping and a defined street pattern. Moreover, the layout of the appeal scheme appears to ignore the open countryside beyond, and unlike Tilbrook Pastures, proposes hard development immediately adjacent to the northern boundary.
19. Consequently, an area of attractive countryside would be lost with the resulting adverse impact on the pleasant rural outlook and replaced by a scheme whose layout and design does not meet the high aspirations set out within the Framework, nor the policy objectives contained within Policies D1 and D2 of Plan MK and therefore conflicts with these policies.
20. I am aware that reference has been made to the fact that the Council did not refuse the application with reference to the detailed design policy D5, or the New Residential Development Design Guide, Supplementary Planning Document adopted 2012⁴ (SPD). However, this reliance on higher level design

⁴ CD5.5

policies does not undermine the conflict which I have found with national and local policy.

Living conditions

21. Number 59 Station Road is a back land modern house that sits close to the public footpath which lies between it and the appeal site. It lies on an awkwardly shaped plot and was recently extended⁵. The internal layout and the configuration of its outdoor space does not reflect that of a traditional property. The northern elevation, in particular the floor to ceiling fenestration within the master bedroom and dressing room, has been designed to take advantage of its elevated position to allow extensive views at first floor level out over the appeal site and beyond, albeit tempered by the use of baffle boards. Whether this elevation should be classed as a rear or side elevation is an academic exercise. What is significant is its functional aspect, which is akin to a rear elevation without the accompanying rear garden space, and the relationship between it and the proposed dwellings at plot numbers 17 and 18.
22. The two parties disagree as to the distance between the existing northern elevation at no 59 Station Road and the rear elevations of the proposed dwellings on plots numbers 17 and 18. However, even if I were to take the appellant's estimate of an intervening distance of around 15 and 16 metres respectively, this would fall well short of the 22 metre back to back distance which is set out as a 'rule of thumb' within the SPD, to enable new developments to avoid overlooking. Clearly, the SPD does not have the status of policy. However, it provides a useful tool to support the policy considerations set out within Policy D5, including the requirement for developments to ensure a reasonable degree of privacy to new and existing private living space and garden area.
23. As part of my site visit, I was able to enter the property. This gave me the opportunity to look out from the windows, and to experience the internal layout of the property. This confirmed that the intervening hedging, trees and boundary treatment along the footpath, especially within the winter months, only gave limited screening. In addition, notwithstanding the footpath between the existing and proposed properties, the two floor to ceiling windows at first floor level, which have been fitted with baffle boards, allow direct and oblique views over the appeal site, accentuated by the elevated position of no 59. I noted that the layout of the bedroom was such that when lying in bed, or moving around the room, the views would naturally be directly across plots 17 and plot 18.
24. The closest room at plot no 17 would serve a bathroom and could be glazed with obscure glass. However, due to the relatively close distance between the elevations which directly face each other, future occupants of the proposed dwelling at plot no 17, and to a lesser, but still significant degree at plot no 18, would not enjoy the levels of privacy which they could reasonably expect to enjoy within their home and when sitting out in their gardens. The adverse impact of the close proximity of the properties, would be further exacerbated by the size of the windows at first floor level at 59 Station Road, which at my site visit appeared to loom over the wider appeal site in an overbearing manner.

⁵ Appendix 5 Jennifer Smith

25. Similarly, the privacy of the occupants of no 59 Station Road would be adversely affected by the perception and reality of direct overlooking from the proposed properties when moving around the dressing room and master bedroom when the blinds were not pulled down. I also consider that the ground floor bedroom could be overlooked from the first and second floor bedrooms of the proposed dwelling on plot 18.
26. In coming to this conclusion, I have been aware of the existing situation relating to the proximity of the footpath to the property and that it is within the gift of the occupants of no 59 to increase their levels of privacy at ground floor level by increasing the depth and height of the screening within their garden. Indeed, on my site visit I was able, when walking along the footpath, to clearly glimpse occupants pottering about within the ground floor accommodation of no 59 Station Road. I also noted as the footpath runs parallel to the property, the baffle boards make it difficult to obtain direct views into the first-floor rooms.
27. However, I consider that there is a substantive difference between the transitory impact of walkers going past a property and the impact of housing development in such close proximity which would result in a substantial loss of privacy in bedrooms.
28. Therefore, the proposed development would have an adverse impact on the living conditions of existing and future occupants of both 59 Station Road and the proposed dwellings at plot numbers 17 and 18, and thereby conflict with both policy D5 of the Plan:MK, and the guidance contained with the SPD.

Housing supply

29. The main parties agreed through the Statement of Common Ground that the Council is required to demonstrate a five year supply of deliverable housing sites of 10,087 dwellings as of April 1, 2019. This figure includes the shortfall and a 5% buffer to ensure choice and competition in the market for land.
30. I note that the appellant expressed concerns relating to the use of the April 1 base date. However, this was agreed within the Statement of Common Ground, and I am content with this approach. Moreover, no additional sites were included by the Council following this base date. Where I have made any amendments to the contribution to the housing supply from individual sites, these have been reductions.
31. Therefore, I have taken into account the most up-to date evidence before me in relation to the five year housing land supply, consistent with the NPPG. Where sites did not demonstrate the clear evidence required to demonstrate at the base date that the sites had a realistic prospect of completions within the five year period, then these sites have not been included within the supply.
32. I have not taken a hard and fast approach to the use of pro forma which I consider in some cases to be the clear evidence required by Annex 2 of the Framework and equivalent in status to the Statement of Common Grounds referred to within the NPPG, albeit, that of course, this is guidance, and the list should not be taken as exhaustive. Moreover, I note that the Council does not take these at face value and will alter the trajectory where it considers it to be overly ambitious. The weight which I have accorded to the status of the individual pro forma has varied depending on the specific circumstances

relating to the individual sites. This has meant that in some instances, the pro forma can be considered to be the clear evidence required by the NPPG, whilst in others they equate to nothing more than an informed guess. Similarly, whilst I have been specifically referred to potential issues relating to the role of the MKDP I have not taken a blanket approach to the significance of its involvement in the deliverability of sites and any impact on time scales. Instead, I have considered each site on its merits.

33. The Council considers it has a gross supply of 13,610 deliverable dwellings⁶. However, in the context of this appeal, the Council has reduced by 10 % the contribution from sites where development is forecast to be taking place in year 5⁷. Although, I note that moving forward the Council does not intend to apply a discount.
34. The appellant does not dispute that the Council can demonstrate 9,947 units as part of its supply. However, the appellant discounts this figure by 15.3%⁸ to arrive at an uncontested supply of 8,425 dwellings.
35. The parties have helpfully identified which sites they consider to be in dispute. I have considered the quantum of deliverable housing with a realistic prospect that housing will be delivered with 5 years on the basis of the specific evidence before me, in the context of this particular inquiry, and informed by planning judgment. I have taken into account conclusions drawn by other inspectors, in relation to specific sites, notably those involved in the Globe and Hanslope appeals and the Local Plan Inspector who had the benefit of a wider range of participants which is not available in the context of a S78 inquiry. Nonetheless, I have come to my own planning judgement on the basis of the evidence before me, and in the context of the 2019 Framework and the relevant guidance within the NPPG.

Disputed sites: allocations

36. The most recent national planning guidance makes clear that the onus is on the Council to demonstrate clear evidence that housing completions will begin on allocated sites within 5 years.
37. In common with the Globe Inspector, I agree that there is a clear intention that housing should be delivered on the Campbell Park Northside allocation. Preferred developers have been selected, a development brief adopted, and a programme of hybrid applications produced.
38. I have taken into account the appellant's concerns, relating to the realism of the proposed programme for development of some Council developments and have excluded them from the supply where appropriate. Nonetheless, I consider that there is the clear evidence to demonstrate a realistic prospect of delivery. These include the Berwick Drive site, and the Lake Estate Neighbourhood Plan sites, together with the Phelps Road and Southern Windermere site.
39. In the case of the Lake Estate Neighbourhood Plan sites, I am aware of the need to rehouse existing residents of Serpentine Court. However, there is a

⁶ In cross examination the Council accepted the loss of the Galleon Wharf site.

⁷ See Council's position re methodology

⁸ This is the same discount used by the Inspector within the Hanslope appeals CD6.4

development programme which appears to be robust and to have shown firm progress towards the submission of an application, albeit a hybrid one. There is commitment to implementation, including a successful estate wide referendum and an adopted Neighbourhood Plan. Moreover, I note that the Council has taken a conservative approach to the amount of housing which could be delivered.

40. The Berwick Drive site benefits from an adopted development brief and the most recent programme is to bring forward development rather than for it to slip back, albeit I note that it is proposed to reduce marginally the contribution of the site.
41. The remaining sites are supported by a variety of evidence which, in the context of the individual sites, is the clear evidence which is required. This includes, inter alia, development briefs for the sites, pre application discussions, preferred developers linked with sites or controlling them. In the case of Daubeney Gate, a Planning Performance Agreement has been entered into, whilst a full planning application has been submitted for land at Hindhead Knoll. Whilst both of these took place since the base date, they are consistent with the evidence that had informed the 2019 housing supply figure.
42. Therefore, taking into account the round table discussions, I consider that there is clear evidence to support the Council's approach of including the following allocations at: Campbell Park Northside, Berwick Drive, Redbridge, Rowle Close, Lake Estate Neighbourhood Plan sites, Phelps Road, Windermere Drive, land north of Vernier Crescent, Manifold, Daubeney, and Hindhead Knoll.
43. I note that there is no guarantee that any planning application that comes forward on these allocations will necessarily be approved. The evidence supporting the sites, may not always directly mirror that set out within paragraph 7 of the NPPG. However, this list is not a closed list of relevant examples, and I have carefully considered each of the sites. Nonetheless, in my judgment, the evidence put forward to support the inclusion of these sites meets the high bar set out within the Framework and NPPG. As a consequence, there is a realistic prospect of housing completions beginning within the five year period on these sites.
44. Development may well be delivered, within the five-year period, on the sites set out below: South-East Milton Keynes (SEMK), Agora, Harrowden, Hendrix Drive, Singleton Drive, Greenleys Rugby Club, Reserve site 3- Westcroft and Tickford Fields. However, taking into account the high bar set in the Framework and the NPPG, I was not convinced there was the requisite clear evidence that housing completions will begin on these sites so as to enable me to conclude that there was a realistic prospect of housing being delivered. Consequently, I could not include them within the five year supply.
45. For example, there was uncertainty over the delivery of the large greenfield sites, such as Tickford Fields and SEMK. Tickford Fields is a large site which is in the full ownership of the MKDP. An agent has been appointed to market the site. An outline application was submitted in January of this year. However, the inclusion of the site within the five year supply appears to be based on an educated guess rather than clear evidence. This position is reinforced by the complications relating to the delivery of a school, and the slippage in the timetable, which has already taken place, since the examination of the MK:Plan. This is underlined by the comment within the pro forma box: 'MKC to

decide how to take the site forward for development which is why details are not available⁹.

46. The SEMK site makes a modest contribution to the housing supply. However, notwithstanding the Statement of Common Ground between the Council and developers, and initial preparatory work that has taken place, it is unclear how the delay to the announcement on the route of the proposed Expressway might impact on the delivery of housing.
47. The smaller allocation at the Harrowden site, whilst part of the Council's programme to provide Council housing seems to have little corroborating evidence that it in fact, will begin to deliver within the five year period. Similarly, I am not convinced that there is the clear evidence to include the following sites owned by MKDP: Hendrix Drive, Singleton Drive and Reserve Site 3.
48. There may be a clear intention that brownfield allocations, such as the Agora site, be redeveloped for housing. In progressing the Agora site there has been continued engagement with the Council. This has included a revised timetable set out within the pro forma, the removal of the risk of listing, and latterly formal pre application discussions and permission to demolish the former shopping centre. However, in this case, the potential barriers to development, such as viability matters and physical constraints such as the demolition of the shopping centre which has yet to take place, cumulatively, cast doubt that there is the clear evidence to enable me to conclude that there is a realistic prospect that housing completions will begin on site within five years.
49. Similarly, the Greenleys site is well advanced with a development partner identified. Nonetheless, the time scale set out within the pro forma is predicated on a start date in June 2020 and there has already been slippage in the programme, such as the exchange of contracts. An application has yet to be submitted, and planning obligation matters relating to the provision of a replacement rugby pitch and changing room will require agreement. Therefore, whilst I am aware that pre application discussions and consultation have taken place, in this instance, the timetable set out within the pro forma does not appear to have the status, consistent with that suggested within paragraph 7 of the NPPG.
50. Consequently, I conclude that of the disputed sites which have allocations, there is a realistic prospect that they will provide a contribution of 657 dwellings.

Disputed sites: outline permissions

51. As with allocations, the onus is on the Council to demonstrate clear evidence to support including outline planning permissions within its five year supply of housing.
52. In my judgment, Tattenhoe Phases 4 and 5, Towergate Farm, the Western Expansion Area remainder site 10, Eagle and Church Farms, and Eaton Leys, should be considered deliverable.

⁹ Page 652 of Appendix 6 of JW PoE.

53. Both Tattenhoe sites, Phases 4 and 5, form part of a large outline permission. Site wide conditions have been discharged, site wide infrastructure has been delivered and a primary school is now open. Delivery on the wider site has been consistent with previous anticipated start and build-out rates. Homes England have provided pro forma for Phases 4 and 5 which clearly set out anticipated start and build-out rates. Phase 4 now has a developer on board. Moreover, Homes England who controls the site has a remit to increase the pace and delivery of housing. Consequently, there is the requisite evidence to include the proposed housing within the supply.
54. Similarly, Tower Gate is owned by Homes England. Firm progress, including the selection of a preferred developer, has been made with the site consistent with the timetable set out within the pro forma.
55. I note that the strategic infrastructure is in place for all of the sites programmed to be delivered within the projected five-year supply at the Western Expansion Area (WEA) (remainder of site 10). In the past, multiple housebuilders have been able to deliver the site leading to very high completion rates. Nonetheless, I accept that the availability of serviced sites should not, in isolation, necessarily equate to a conclusion that development will be forthcoming in the next five years, and that interest in development, in itself, may not be enough.
56. The Disposal Strategy published in December 2019, sets out a timetable for disposal of the remaining land, and development of the sites. I am aware that there was a temporary hiatus in the disposal of sites to market, with land disposals expected to resume in June 2020, and that at the later end of the period the disposal programme sits tightly with the need to apply for reserved matters. However, I draw comfort from a recently approved REM application¹⁰, which took just over half a year from submission to completions on site.
57. Previous housing delivery has been consistent with the pro forma provided by the lead developer. Therefore, on the basis of the evidence before me, notwithstanding that it is not known who the housebuilders will be on the remaining sites, and that there are no pending reserved matter applications at the moment, it is my judgment that there is sufficient evidence to include both sites within the housing supply. However, in this particular instance rather than accepting the figures put forward by the Council in the table of disputed sites, within the Addendum to the agreed Housing Statement of Common Ground, I have used the conservative figure of 492, made up of the anticipated start and build-out rates, derived from the Disposal Strategy. In the interests of clarity had the Disposal Strategy not been published, I would have still concluded that the site should remain within the supply.
58. In relation to the remainder of WEA site 11, given the Council's suggested reduction in housing delivery following the publication of the Disposal Strategy, which I consider to be sensible, there is little difference between both parties at 317 and 324 dwellings respectively. Therefore, I have excluded the contribution of this site from the disputed sites.
59. The developer who is currently building on the first phase of the Eagle Farm site, and has an option on the disputed site, has set out in an email that they

¹⁰ 19/013330/REM

'guess' that the reserve matter application for the site will be submitted in the summer of 2020. However, given that they are already operating on the wider site and that the infrastructure has already been delivered, irrespective of the informal nature of the evidence, I consider that this is enough to demonstrate a realistic prospect that the housing will begin within five years.

60. The developer for Church Farm has been working with the Council to be able to be in a position to submit a reserved matters application. Progress has been made and the recently submitted PPA request set out a timetable consistent with the pro forma which informs the housing supply position. I do not consider the comment relating to being, '*in the hands of MKC*', to undermine the realistic prospect of delivery of the site.
61. A Planning Performance Agreement for the Eaton Leys site had been agreed between Barratts and David Wilson Homes (BDW) and the Council before the base date. Reserved matters have been granted for all site wide infrastructure and all the site wide conditions have been discharged. I am aware that at the time of the inquiry, there were outstanding highway objections relating to a reserved matters application that had been submitted in May 2019. However, this delay in the approval of the reserved matters does not persuade me that there is not a realistic prospect that housing of around 308 units will be delivered on the site within 5 years, particularly given that access works to the site are underway and the on-site infrastructure is being delivered.
62. Nonetheless, there is sufficient doubt in relation to the Ripper, Wolverton Railway Works, Timbold Drive, Walton Manor and Tilbrook Farm sites, for me, in the context of this particular appeal, to exclude these from the supply of deliverable sites.
63. Consequently, I conclude that of the disputed sites which have outline permissions, there is a realistic prospect that they will provide a contribution of 1370 dwellings.

Conclusion on housing supply

64. In sum, there is clear evidence to enable me to conclude that there is a realistic prospect that 2,027 of the 3,677 disputed housing completions will begin on site within five years. When added to the stock of undisputed sites, this equates to a housing supply of around 5.9 years. Of course, this is not to say that all sites will be delivered, rather that there is a realistic prospect that they will be. Accurate monitoring of housing delivery will establish whether this is the case, and depending on the outcome, the Council will be required to respond appropriately. Indeed, the Council is doing so through its Housing Delivery Action Plan¹¹.
65. There is nothing within the 2019 Framework and associated NPPG which requires that discounts be applied to an individual site's contribution to the five year supply. I note that the Hanslope Inspector concluded that the application of the appellant's discount of 15.3% was appropriate, and that this judgment had been challenged unsuccessfully¹². I am also aware that a greater discount

¹¹ CD3.13

¹² CD7.6

had been applied by the Inspector within the Woburn Sands IR, and that the Secretary of State did not demur from this approach¹³.

66. However, I also note other examples that have been drawn to my attention of the Secretary of State, and other inspectors not applying a discount¹⁴. Also, I am aware that for the purposes of this particular inquiry, that the Council has taken a precautionary approach by applying a discount of 10% on all sites where the forecast delivery suggests that an element of the site will be delivered in the fifth year.
67. In the past, as illustrated in Mr Dix's evidence, there appears to have been a mismatch between the Council's assessment of the deliverability of a site and the actual historic delivery of housing on the ground. However, recently, there has been a significant increase in delivery consistent with the housing requirement. Such spikes in development may be short lived and associated with the construction of apartments. However, last year the Council exceeded its annual requirement, and so far, the Council is on course to meet this year's required, and projected completions with a number of developments delivering with multiple developers on site. Moreover, three quarters of the way through this year, units under construction should provide 100% of next year's requirement¹⁵. This gives me confidence that, on the whole, the Council is not including sites within the supply which do not have a realistic prospect of delivery.
68. The plan led supply of housing sites has diversified so as to boost housing delivery, with less reliance on large strategic sites, through the Site Allocation Plan (2018) and Plan:MK (2019). A minimum target for housing has been set within the plan. However, the housing allocations in locations consistent with the plan's strategy provide the capacity for an additional 18% more dwellings¹⁶ over the plan period.
69. The same advocate and housing witness attended the Hanslope hearings and this inquiry. However, I note that my conclusion differs from that of the Hanslope appeals inspector and is consistent with that of the Globe Inspector. I am aware that different evidence was presented at both hearings and that different witnesses were involved. I struggle to understand how evidence submitted by the Council at two different hearings, which took place in the same month would be substantively different. However, I understand that the evidence at the later Globe appeal had been presented in a more, *'timely, clear and coherent manner'*¹⁷.
70. Nevertheless, for the purposes of this appeal, I have undertaken a rigorous consideration of the contribution of the individual housing sites and the evidence before me, consistent with the Annex 2 definition of deliverable and guided by the advice set out within paragraph 7 of the NPPG, and the legal cases to which I have been referred. This assessment has resulted in my excluding 14 of the disputed sites from the supply, where in my judgment there is no clear evidence that housing completions will begin within 5 years.

¹³ CD6.2

¹⁴ CD6.11

¹⁵ Paragraph 5.4 of the J Williamson's PoE

¹⁶ CD5.2 paragraphs 144 and 148

¹⁷ JW PoE para 4.10.2

71. Therefore, in the absence of national policy or guidance requiring me to apply a discount, I have not included either discount within my final calculations. Nonetheless, even if I were to have concluded that the application of a discount was appropriate on the basis of an optimism bias, and had applied the discount of 15.3%, the Council would still, on the basis of the evidence before me at this inquiry, be able to demonstrate a supply of just over five years of housing. As a consequence, I conclude that the Council is able to demonstrate a five year supply of housing with a realistic prospect of delivery.

Other matters

72. The appellant has provided an executed UU. However, with the exception of the affordable housing element these matters relate to the mitigation of the impact of the scheme, to which I accrue no benefit. Nonetheless, the UU does provide for affordable housing which would weigh in favour of the development. I conclude that the affordable housing element is necessary and at 32% is consistent with policy HN2 of Plan:MK and the provisions of the recently adopted Affordable Housing Supplementary Planning Document. As such the contribution is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
73. Milton Keynes has not been able to deliver the significant uplift in affordable housing required to meet its targets and already has experienced a deficit of 41%¹⁸ over the plan period. The policy wording of HN2(A) attributes strong support to the provision of affordable housing over and above the 31% requirement. Nonetheless, in the particular circumstances of a relatively small scheme which, as mathematical necessity must either provide less than the 31% requirement or more, I accord the provision of a contribution of 32% affordable housing no greater weight than I would otherwise. Nonetheless, given the pressing need for additional affordable housing, I consider this to be a significant benefit of the proposed development.
74. The appeal site is located close to the village facilities and has access to public transport. However, this would equally apply to other sites including those within the village settlement. Therefore, I accord this benefit little weight in favour of the proposed development. Nonetheless, the appeal scheme is a small site under the control of a local builder. It would provide a mix of market housing and has the potential to be built out relatively quickly, to which I adduce moderate weight.
75. The proposed development would result in the demolition of two buildings associated with the builders' yard. However, as I have previously set out, I do not consider that these, in themselves, detrimentally impact on the street scene and therefore, their demolition would not in itself result in a positive benefit.
76. I have found that the Council is able to demonstrate a five year supply of deliverable sites.

¹⁸ CD5.13

Planning balance

77. I have found that the Council is able to demonstrate a five year supply of deliverable housing, therefore the tilted balance is not engaged. Consequently, I must determine the appeal on the basis of its compliance with the development plan.
78. As set out above, I have found that the appeal proposal would conflict with policies DS1, DS2, DS5 of Plan:MK in relation to the development strategy of the plan. I have also found that the appeal proposal would conflict with policies D1, D2 and D5 of Plan:MK and the New Residential Development Design Guide, SPD in relation to the impact on the character and appearance of the wider area and impact on the living conditions of residents of no 59 Station Road and future occupants of plots numbers 17 and 18. As such, I consider that the proposal is contrary to the development plan as a whole. I accord this conflict very significant weight.
79. The positive benefits of the scheme include affordable and market housing, which could be delivered quickly. Cumulatively, I accord these benefits significant weight. I have accorded the location of the proposed development little weight and consider that the demolition of the existing buildings on the site would have a neutral impact and therefore would not weigh in favour of the proposal.
80. Cumulatively, I consider that the appeal proposal's benefits would not provide material considerations that would overcome the conflict with the plan taken as a whole. A decision other than in accordance with the development plan would not be justified. Even, had I come to the conclusion that the Council was unable to demonstrate a five year housing land supply, the harm that I have identified would be sufficient to lead me to dismiss the appeal on the basis that the adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

81. For the reasons set out above I dismiss the appeal.

L. Nurser

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Henderson Instructed by Sharon Bridglalsingh, Director Law and Governance, Milton Keynes Council.

He called

Mr James Williamson BA Senior Planning Officer, Milton Keynes Council
(Hons) MSc, MRTPI

Mr Paul Keen MA MRTPI Area Team Leader, Milton Keynes Council

FOR THE APPELLANT:

Mr Peter Goatley, assisted by Instructed by Smith Jenkins Town Planning
Mr James Corbet Burcher

He called

Mr Samuel Dix MA Associate, Smith Jenkins 1
(Hons), MSc, MRTPI

Mrs Jennifer Smith BSc Managing Director, Smith Jenkins Town Planning
(Hons) Dip TP, MRTPI

INTERESTED PERSONS:

Mr Chris Barrington Local resident
Ms Sue Malleson Local resident

DOCUMENTS

- I1 Appearances on behalf of the appellant.
- I2 Opening statement on behalf of the appellant.
- I3 Opening statement on behalf of the Council with appearances appended.
- I4 Site visit plan.
- I5 Updated list of Core Documents.
- I6 Blind Pond Farm Officer Report 19/03437/FUL delegated decision 18/02/2020.
- I7 Amended plans plot 17: PL-16- A3, PL-17 A3- dated February 2020
- I8 Photographs provided by Mr Barrington.
- I9 Landscape Sensitivity Study to Residential Development in the Borough of Milton Keynes and Adjoining Areas: Milton Keynes Council, October 2016.
- I10 Site photos: Land north of Blind Pond Lane (Blind Pond Farm 2) Ref. 19/03437/FUL provided by the appellant.
- I11 Accommodation schedule with drawing numbers/ core document references.
- I12 Updated list of application drawings numbers and documents.
- I13 Further photographs provided by Mr Barrington.

- I14a Additional proposed conditions
- & b
- I15 Closing submission on behalf of the Council.
- I16 Closing submissions on behalf of the appellant.

Richborough Estates