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## Appeal Decision

Site visit made on 10 March 2020

**by R Norman BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 September 2020**

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**Appeal Ref: APP/K0235/W/19/3243154**

**Land West of Wootton School, Hall End Road, Wootton MK43 9HT**

- 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 Hollins Strategic Land LLP against the decision of Bedford Borough Council.
  - The application Ref 19/00894/MAO, dated 18 April 2019, was refused by notice dated 28 November 2019.
  - The development proposed is described as outline application for up to 81 dwellings with access considered.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The new Bedford Borough Local Plan 2030 (Local Plan) was adopted in January 2020. I have considered the appeal proposal against the relevant newly adopted policies.
3. The Council highlight a significant change in circumstances since the Council's decision resulting from the adoption of the new local plan and the resulting change in five year housing land supply and accordingly the planning balance. Therefore, whilst the Council refused the proposed development on the basis of highway matters, as part of the appeal they have also now raised other matters which I will consider as part of the overall planning balance.
4. Following the adoption of the new Local Plan, the Council have identified that they can now demonstrate a five year supply of housing land. The Council advised that following the public examination the supply was found to be 5.4 years. However, the Council's calculations based on sites with planning permission at 31 March 2019 state that the supply is 5.75 years. The Appellant has submitted a number of additional documents, which the Council have had considered and responded to.
5. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

6. The proposal would introduce up to 81 new dwellings into the appeal site and is currently in outline with access only committed at this stage. The layout, scale, appearance and landscaping of the development are therefore reserved for consideration at a later date. I have considered the proposal on this basis. Plans have been submitted showing a potential layout, street scene and landscaping however these are illustrative only and I have therefore considered them as such.
7. A signed Section 106 legal agreement has been submitted dated 9 March 2020. This makes provision for affordable housing, highway works, community health, school transport and open space. In addition, there is an unresolved dispute over the financial contribution for the Forest of Marston Vale and as such, the Section 106 includes two different figures for this contribution. However, as I am dismissing the appeal for the following reasons it is not necessary for me to reach a finding on the exact contribution required in this instance.

### **Costs Application**

8. An application for costs was made by Hollins Strategic Land LLP against Bedford Borough Council. This application is the subject of a separate Decision.

### **Main Issues**

9. The main issues are
  - Whether the appeal site is a suitable location for new housing;
  - The effect of the development on the landscape character and overall character and appearance of the area;
  - The effect of the development on highway safety;
  - The effect of the development on the loss of agricultural land; and
  - Whether the development would result in harm in terms of the impacts on the County Wildlife Site (CWS).

### **Reasons**

#### *Location for Housing*

10. The appeal site is located outside of but adjoining the Settlement Policy Area for Wootton. Policy 7S of the Local Plan considers development in the countryside and highlights that development outside defined Settlement Policy Areas will be permitted if appropriate and exceptional proposals will be supported on sites that are well related to the built form where it meets a number of criteria. Policy 4S allocates no further housing in Wootton.
11. Although the site is located outside of any settlement policy area it nevertheless adjoins the built form of Wootton. It is located adjacent to the school and there are footpaths providing connectivity into the village. Within Wootton itself, there are a number of services and facilities including a village hall, bus stops, convenience store and public open spaces. However, I find that the proposed development would not comply with the criteria contained within Policy 7S which restrict development to specific types to meet a local need or the replacement or reuse of rural buildings. Policy 7S goes on to identify that

exceptionally development proposals should respond to a community need, have identifiable community support and contribute positively to the surroundings, amongst other things. I have not been provided with sufficient evidence or indications of community support which would meet the listed requirements.

12. Accordingly, for the above reasons and as a result of the policy conflict I conclude that the proposal would not be located in an area suitable for additional housing. I therefore find that the proposed development would not meet the requirements of Policies 3S, 4S and 7S and would not fall within any of the criteria within Policy 7S to justify new development outside of the Settlement Policy Areas. Policy 3S identifies the Council's spatial strategy and seeks to ensure that the intrinsic character of the countryside will be safeguarded, amongst other things.

#### *Character and Appearance*

13. The appeal site is located adjacent to Wootton Upper School, accessed off Hall End Road. It currently comprises an area of land in use as paddocks. The school occupies a large site, on the other side of the site is an access track and to the rear is an area of trees.
14. The appeal site is highly visible from Hall End Road as a result of the gently undulating land levels. It is bounded by hedging with a gated access to the front. A pond is present within the site. The site falls within the Landscape Character Area (LCA) 1A. The characteristics of this area include a medium to large scale plateau landscape with open and exposed character and long distant views, and a gently rolling landform, amongst other things. The overall character is one of a rural landscape.
15. The site is located in proximity to the village which falls within LCA 5D. Its characteristics refer to the adjacent LCA 1A and highlights the area as forming a strong contrast to the vale, exaggerating its flat and open character.
16. The Landscape Strategy aspires to enhance the landscape and conserve its rural, undeveloped character. The proposed development would be located adjacent to the extensive school premises, which at present forms a definitive boundary between the built settlement and the open landscape and sporadic properties. Opposite the appeal site is also open land, bounded by hedging, and a housing estate sits opposite the school premises. As such, I find that the appeal site relates predominantly to the open, rural landscape rather than the built form of the village.
17. The Appellant has provided a Landscape and Visual Appraisal dated 8 April 2019 which has considered the potential impacts of the proposed development on the surrounding landscape and visual receptors. The submitted report has identified 10 key viewpoints around the site including from the nearby public rights of way (PRoWs) and along Hall End Road and consider that the appeal site is relatively enclosed from wider views as a result of the land levels, presence of trees and hedgerows and the built form in proximity to the site.
18. The submitted assessment considers that in terms of residential properties and the users of the network of PRoWs there would be high and medium sensitivity views of the site and medium to low sensitivity from the school premises.

19. Whilst I accept that the site is enclosed to a degree by the native hedgerows, trees and adjacent school building, I still find it to be visually prominent as a result of the gently sloping land levels, particularly when approaching the site from along Hall End Road.
20. The introduction of a large number of dwellings into the appeal site, coupled with the land levels would result in a visually prominent development which would encroach harmfully into the rural landscape and would result in a significant and permanent visual alteration to the surroundings. Whilst the proposed layout, scale and appearance of the properties is not committed at this stage, I have had regard to the illustrative layout provided and it does not persuade me otherwise and I do not find that the development presents a logical extension to the settlement for these reasons. This is further exacerbated by the lack of built form on the opposite side of the road which would result in a substantial encroachment into the countryside beyond the established main built form.
21. I note the content of the Council's original committee report in relation to the proposed development being viewed against the backdrop of the adjoining school and the visual impacts, which was not disputed by the Members of the Planning Committee at the time. However, for the above reasons I concur with the Council's later conclusions on the visual impacts as identified in the submitted statement of case.
22. Consequently, the introduction of dwellings into the appeal site would fundamentally alter the rural character and appearance of the appeal site and its surroundings and would therefore fail to conserve or enhance the character and appearance of the area. It would therefore fail to comply with Policy 37 of the Local Plan which requires development to protect and enhance the key landscape features and visual sensitivities of the landscape character areas and the character and qualities of the local landscape, amongst other things.

#### *Highway Safety*

23. The proposed development would be accessed from Hall End Road with one vehicular and pedestrian access proposed along the site frontage. The illustrative layout also indicates two small accesses which would lead around the site and adjoin the school road to allow for habitat connectivity and maintenance. This would also potentially adjoin some of the estate roads within the appeal site.
24. The access would be utilised by all of the properties within the site, therefore potentially up to 81 dwellings. The dwelling sizes and likely level of occupation is not yet established, nevertheless the proposed development would result in a large number of households utilising the single access point.
25. The Appellant has provided a Highways Appeal Statement dated December 2019 and July 2019. I note that site visits to support the December statement were carried out during school drop off and pick up times.
26. The Appellant has demonstrated within these statements that the proposed development would not have an unduly harmful impact on the road network as a result of the current level of traffic using Hall End Road and nearby roads. Whilst there is some congestion and parking pressures at school times, I am satisfied that these have been adequately addressed within the submitted

- evidence. Furthermore, the traffic issues associated with the school are for short periods each day and, whilst the layout of the site is not yet committed, the provision of adequate parking for the new development would ensure that the proposal would not give rise to a significant increase in parking along the road.
27. The proposed development would include the provision of off-site measures, including a new informal pedestrian crossing and improvement, to ensure that pedestrian and highway impacts were mitigated.
28. Local objections have been raised regarding traffic survey not being carried out at school times and local accidents, width and condition of road. The appeal site is located close to a bend in the road. However, I find that the above concerns have been adequately addressed within the appellant submissions.
29. I have also had regard to the previous comments of the Highways Development Control Team which acknowledged that, whilst there would be an increase in traffic as a result of the development, the assessment that has been carried out shows that there is sufficient road and junction capacity as the road has low traffic flows. The issues in relation to school traffic already exists and the peak trips resulting from the development traffic will not necessarily coincide with this. Not all of the traffic from the development will pass along Church Road and I have little before me to demonstrate that the development would result in a need for more buses.
30. Consequently, based on the evidence before me, I find that, subject to the mitigation measures and conditions, the proposed development would be acceptable in highway safety terms. As such it would comply with Policies 31 and 88 of the Local Plan insofar as they require development to avoid significant adverse impacts on access to the public highway and demonstrate that the social and environmental impact of traffic has been considered in relation to a number of issues.

#### *Agricultural Land*

31. The appeal site is classed as Grade 3a agricultural land and it is common ground between the parties that the site is considered to be best and most versatile agricultural land. Policy 46S of the Local Plan seeks to reuse suitably located previously developed land for development and identifies that where significant development is demonstrated to be necessary on agricultural land, poorer quality land should be used in preference to the best and most versatile agricultural land, amongst other criteria.
32. However, based on the Council's report to planning committee it was concluded that the loss of agricultural land had not been justified and that therefore there was a conflict with the relevant local and national planning policies and guidance at the time. I therefore find that the Council's position on this matter has not fundamentally changed as a result of the adoption of the new local plan.
33. The Appellant has provided an Agricultural Land Classification Report which confirms the Grade of the land to be 3a. However, I have been provided with limited justification for the use of this grade of agricultural land and the availability of previously developed land or lower grade agricultural land.

34. Consequently, I find that it has not been demonstrated that the appeal proposal could not be located on lower quality agricultural land and as such it would conflict with Policy 46S. It would also fail to comply with the aims of paragraphs 117 and 118 of the Framework and Planning Practice Guidance which aim to make as much use as possible of brownfield land and take into account the economic and other benefits of the best and most versatile agricultural land.

#### *County Wildlife Site*

35. The appeal site falls within the Forest of Marston Vale designation and forms part of a designated County Wildlife Site, Wootton Wood CWS. It comprises one of two fields of neutral grassland. The proposed development would therefore result in the loss of part of the CWS. The illustrative layout plan indicates that the part of the site that sits adjacent to the existing woodland could be retained for conserved and managed meadows.
36. Policies 42S and 43 focus on biodiversity and state that development should be designed to prevent any adverse impact on locally important sites, species and habitats of principle importance, or where an adverse impact is unavoidable demonstrate how the harm will be reduced through appropriate mitigation and should provide a net increase in biodiversity through enhancement of the existing features on the site, or the creation of additional habitats on the site or the linking of existing habitats, amongst other things.
37. The proposed development would not affect the whole of the field and the Appellant has identified that it would result in only around 6% of the whole of the CWS being developed. The proposed development would involve the management and restoration of the grassland to Lowland Meadow Priority Habitat status, planting of new native hedgerows, provide measures to support roosting bats and nesting birds, provide new Great Crested Newt breeding ponds and provide freshwater habitats with improved connectivity. The development would also generate a contribution to the Forest of Marston Vale.
38. Based on the information provided, as well as the comments provided by the Wildlife Trust I find that although the development would result in the loss of part of the CWS to housing, the mitigation measures indicated would provide a number of opportunities to enhance the biodiversity and habitats. As such, the Appellant has demonstrated that a net gain in biodiversity measures could be achieved as a result of the development, and subject to the conditions suggested by the Wildlife Trust.
39. Accordingly, I find that the proposed development, although resulting in the loss of part of the CWS, would not be harmful to the provision of suitable biodiversity and habitat measures. It would therefore comply with Policies 42S and 43 of the Local Plan.

#### **Other Matters**

##### *Five Year Housing Land Supply*

40. I note that the Local Plan was examined under the provisions of the 2012 Framework and have had regard to the differences between the 2012 and 2019 tests as highlighted in the *Harrold Consent Order* supplied by the Appellant and the *Bromham* case. The 2019 Framework includes a much more rigorous approach to the issue of deliverability and makes clear that the site must be

available and in a suitable location for development to take place and that there should be a realistic prospect that housing will come forward on the site within 5 years. I have had regard to the outcomes of both the cases referred to by the Appellant and note the fact that they either failed to conclude on the five year housing land supply or failed to apply a buffer.

41. I have considered the Council's latest supply document 'five year supply of deliverable housing sites 2019/20 – 2023/24: Update to May 2019 report' dated June 2020, which provides an updated figure and applies a 5% buffer. The Appellant calculates that based on the updated evidence the Council can only demonstrate a five year supply, a reduction from the previous amount.
42. From the Appellant's evidence, I find that the Council's housing land supply has reduced to 5 years. This still leaves a five year supply and so, on this evidence, the *tilted balance* in paragraph 11(d) of the Framework would not be engaged.
43. However, I also recognise that the Covid-19 pandemic has had implications for the housebuilding industry including lockdowns preventing work and customer confidence in buying and selling properties. Noting the *Harrold and Wyre* Annual Position Statement, that much construction work shut down for approximately 3 months, and the Compass letter and the latest position, I conclude that the pandemic resulted in the Council's housing land supply falling below 5 years, albeit marginally. Whilst a five year supply would not engage the *tilted balance*, anything below this, however slight, does engage paragraph 11 d) of the Framework and renders the most important policies for the supply of housing out of date.
44. Whilst this may have the potential to impact on the Council's supply of housing land which is supported by the Compass Assessment identifying a 10% reduction in delivery, it appears that these impacts are likely to be short term. Indeed, the submitted Barratt letter confirms that sites are open again which I note, and which seems consistent with the suggested 3 – 6 month short term effects. I therefore find that although there is likely to have been a modest reduction in the housing land supply, this would be marginal and reasonably short term and with the potential for a reasonable rate of recovery.

#### *Local Objections*

45. Local objectors have indicated that there is insufficient capacity at the schools and medical centre, however I have been provided with limited information to support this, nevertheless I have considered the fact that Policy 4S does not allocate any further residential development for Wootton.
46. A large number of local objections have been received concerning, in addition to the above matters, the impact on Listed Buildings, the village is overdeveloped with other unfinished developments, there is an ongoing Neighbourhood Plan being prepared, lack of Parish Council support, concern over flooding and surface water disposal and water pressure. However, it is not necessary for me to conclude on these matters as they would not alter my findings above and the outcome of this appeal.

#### **Planning Balance**

47. The Appellant has identified benefits that would arise from the proposed development. These comprise the delivery of a medium sized site by an Appellant with a proven track record of delivery, meeting the objectives set out

in the Bedford Green Infrastructure Plan, improvements to the biodiversity value of the site, provision of affordable housing, a development within an accessible location, highway works, provision of open space and an open corridor and social and economic benefits through new homes bonus, CIL, council tax, construction jobs and increased spending for local services and facilities.

48. I have had regard to the above matters, and whilst they do represent benefits many of them are in line with the usual requirements for such a development. However, a development of this scale would generate a good level of economic, social and environmental positives and I therefore give these weight in my consideration of the proposed development.
49. Furthermore, as a result of my conclusions on the reduction in the five year housing land supply based on the information before me and the implications of the Covid-19 pandemic, the provision of up to 81 dwellings towards the housing land supply carries weight and would be a benefit. However, whilst there is currently a shortfall in the five year housing land supply, and so the *tilted balance* should be applied, this is a marginal shortfall and is for a short period of time, which is through no fault of the Council. I find the weight I afford to this is less than if the shortfall were significant and/or the impacts of the pandemic were demonstrably long term.
50. Weighing up all of the material considerations against the policies of the development plan which are not out of date, even though the *tilted balance* is applied, I have given more weight to the conflict with the policies of the recently adopted development plan and the substantial harm that I have identified in relation to character and appearance and location for housing and to a lesser extent the loss of agricultural land. Accordingly, I conclude that the development would be contrary to the development plan as a whole and the harm I have identified would be to such a degree that it would not be outweighed by the provision of up to 81 homes, and the other material considerations, including the provisions of the Framework.

## Conclusion

51. In conclusion, for the reasons given above, and having carefully considered all matters raised, including the documents provided including those recently submitted, I conclude that the appeal should be dismissed.

*R Norman*

INSPECTOR