



Appeal Decision

Hearing Held on 9 May 2024

Site visit made on 9 May 2024

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/P0240/W/23/3324532

Land North of Stockbridge Road, Clifton, Bedfordshire SG17 5HA

- 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 & Mrs A Cooper & Abbeymill Homes against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/01488/FULL, dated 25 April 2022, was refused by notice dated 11 January 2023.
 - The development proposed is the erection of 16 dwellings, with new access off Stockbridge Road, together with garaging, parking and landscaping, and proposed new area of public open space and all enabling works.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr & Mrs A Cooper & Abbeymill Homes against Central Bedfordshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Two reasons for refusal were set out within the Council's decision notice, the first related to the effect on the character and appearance of the area and the transition between Clifton and Henlow. The second related to the absence of a s106 agreement to secure obligations in respect of affordable housing and local infrastructure provision.
4. An executed legal agreement was submitted during the appeal proceedings and it is common ground between the parties that the obligations within it are sufficient to address the Council's concerns in respect of the second reason for refusal. I see no reason to take a different line having regard to the information before me, including the 'CIL Compliance Statement' that was handed in on the day of the Hearing and the discussion on the matter at the event.
5. Somewhat belatedly the parties submitted an agreed Statement of Common Ground (SoCG) made up of two sections, one covering matters relating to housing land supply (HSL) and the other more general planning matters and factual points relating to the proposal. Notwithstanding the timing of the submission, the information was helpful in narrowing the matters in dispute.

6. The appellant submitted a number of amended plans with the appeal which were drawn up as a result of a need to incorporate energy efficiency measures in respect of the dwellings. Generally, where an appeal is determined, it is done so on the basis of the plans that were before the Council at the time the application was considered so as not to prejudice anyone who may wish to comment on any amendments. However, in this case, the external changes are of an inconsequential nature and the Council has no objection to the proposal being considered on the basis of the submitted amendments. Given the minor extent of the changes I am satisfied that no prejudice will arise on account of my decision to consider the appeal on the basis of the amended plans.

Main Issues

7. Further to the above, the main issues in the determination of the appeal are:
- i) The effect of the proposal on the character and appearance of the area, including the extent to which it would lead to the physical and visual coalescence of Clifton and Henlow; and
 - ii) Whether the Council is able to demonstrate a five-year supply of deliverable housing land.

Reasons

Character and Appearance of the Area/ Coalescence

8. The appeal site is an irregular shaped parcel of agricultural land which directly adjoins the eastern edge of Clifton, to the north of Stockbridge Road. I understand that the site may have been quarried in the past which would account for the difference in land levels, with the western part of the site being set down below the level of the road. Residential development adjoins the site to the south, on the opposite side of Stockbridge Road, to the west and partially to the north where a cluster of flats at Billberry Road projects outwards, beyond surrounding housing.
9. Beyond that, to the east and north, the site is bound by open countryside. The smaller settlement of Henlow is located further to the east, with 91 Stockbridge Road – Meadow View – and the farm buildings immediately to the rear being roughly equidistant between the two settlements.
10. In terms of landscape character the site is located within the Clay Valleys Landscape Character Type and more specifically the Upper Ivel Clay Valley, as identified by the Central Bedfordshire Landscape Character Assessment (2015) (the LCA). A number of defined characteristics of that typology are observable in the vicinity, including the generally level or slightly undulating arable fields which are generally of some size; the settlement pattern of villages which spread out along key roads and the open views across arable farmland.
11. The Landscape Strategy within the LCA is to enhance elements that have become lost or degraded, such as hedgerows, and to create new features including, amongst other things, woodlands and tree planting to screen harsh urban boundaries. Key guidelines for development include the need to avoid the coalescence of Clifton and Henlow, particularly the linear merging along the road; the enhancement of landscape boundaries along the urban edge; and to

- conserve the character of secondary roads, limiting the urban influence of kerbing and traffic management measures.
12. The landscape aims in respect of coalescence are reflected in the designation of the land between Clifton and Henlow as an Important Countryside Gap in the Central Bedfordshire Local Plan (2021) (the Local Plan). Policy SP5 applies and states that new development within those areas will be permitted, providing it does not result in the visual or physical coalescence of settlements and would not undermine the separate character or identity of individual settlements.
 13. In terms of landscape value, the appellant's Landscape and Visual Appeal Statement (LVAS) identifies that although the site is part of an edge of settlement landscape that is pleasant and has some positive attributes, there is nothing to elevate it above the ordinary¹. The LVAS also concludes that the landscape value of the site is low, with landscape sensitivity being low to medium.
 14. Having viewed the designated countryside gap from various roads and footpaths it is clear that the gap at Stockbridge Road is one of the narrowest points between the two settlements due to the way in which development has spread out along the edge of the road. As I travelled along the road between the two, which I did in the car and on foot, I was struck by the limited degree of separation. The fact that there is a farmstead with substantial buildings half way between the settlements on the northern side of the road also has the effect of narrowing the apparent gap. In effect, there is only one modest field between the east of the farm and Henlow and two fields, one of which is the appeal site, between the west of the farm and the edge of Clifton.
 15. Consequently, the appeal site is situated in a very sensitive location in between the two settlements. Given the extremely limited gap between the two at this point along Stockbridge Road, and the stated aims of the LCA of avoiding coalescence, the sensitivity to change is somewhat greater than that stated within the LVAS in my view. Whilst the field, of itself, may be of relatively low landscape value and not out of the ordinary it plays a significant role in maintaining the historic settlement character and identity of individual villages which is an integral part of the landscape as a whole.
 16. I recognise that the western end of the appeal site is surrounded by existing development. The proposal would amount to 'rounding off', such that it wouldn't project significantly beyond that surrounding development, if viewed on plan. However, the reality is that most people who experience the landscape do not do so when looking 'on plan'. They do so when passing a site or in views from further afield. In that respect the site is particularly prominent in mid-range views on the approach to Clifton from Henlow.
 17. As one travels from Newtown, down onto Stockbridge Road, the undeveloped gap provided by the appeal site is a distinct green finger running into the settlement, providing physical and visual separation between the residential development immediately to the south of Stockbridge Road and the flats to the north of the site. Moreover, when one leaves Clifton in the Henlow direction the appeal site provides a sense that the town is being left behind once one passes the dwelling at No.67. Due to the degree of set back and the intervening field and hedgerow, the flats at Billberry Road are not prominent

¹ Paragraph 2.35 of the Landscape and Visual Appeal Statement.

and the appeal site immediately to the left gives the feeling of being within the countryside. The building line at the edge of the settlement is clearly staggered, with residential development immediately to the south but that does not negate the importance of the site in the separation between the two settlements.

18. In contrast to the current situation, the proposed development would visibly extend the settlement along the northern side of the carriageway in a way that would be visible when leaving Clifton, notwithstanding that the site is set down to an extent below the road. More notably, the easternmost dwellings would be highly prominent on the approach to Clifton, as depicted in Viewpoints 3 and 5 of the LVA, even at year 10. The effect would be to significantly foreshorten the gap between the two settlements as viewed from the Henlow direction.
19. Given the narrowness of the present gap and its sensitivity to change the incursion of residential development along Stockbridge Road would clearly undermine the stated intentions of the LCA and policy SP5 and add to physical and visual coalescence. The proposed open space would not mitigate for the physical creep of development along the road in my view. In fact, although not unpleasant visually, the swales and managed planting would give a degree of formalisation that would visually relate to the suburban residential estate as opposed to the pattern of arable development which is characteristic of the surrounding countryside. The access point with its associated visibility splays would further add to the suburban feel. Therefore, whilst the impact of the development would be reduced when compared to the previous appeal proposal at the site, it would still cause significant harm in the context of the sensitive nature of the location.
20. The dwellings and the surrounding open space would not look out of place against the surrounding residential development in terms of their design or outward appearance which would reflect the generally modern housing on the edge of the town. However, for the reasons given, the encroachment of development into the countryside would have a harmful effect on the character and appearance of the area in a wider sense on account of the reduction in the gap between Clifton and Henlow which would erode the individual character and identity of each settlement. Given that the two historic settlements have stood apart since their inception and the clear aims of the LCA the harm arising from encroachment is a matter that attracts significant weight.
21. Reference has been made to the approval, at appeal, of an estate of up to 80 dwellings on land off Broad Street². However, the characteristics of that site were notably different to the appeal before me. In particular, the site in question is located away from the main roads between the two settlements and the Inspector explicitly referenced the fact that a significantly wider gap would remain than is the case on the road frontages, including Stockbridge Road³. In her view, the site in question was not in a 'constrained' part of the important gap. In contrast, for the reasons set out above, the appeal site is in a highly sensitive and constrained part of the important gap.
22. For all of those reasons, the development would cause harm to the character and appearance of the area and fail to accord with the aims of policy SP5 of the Local Plan. It would also contravene policy EE5 which states that development

² Appeal ref: APP/P0240/W/18/3211229

³ Paragraph 22 of the decision.

is required to respect, retain and enhance local character and distinctiveness in terms of the scale and pattern of the surrounding landscape and settlement form, having regard to key characteristics defined by the LCA.

23. The failure to reflect local distinctiveness in terms of the settlement pattern is also such that the proposal contravenes the aims of policy HQ1(1) of the Local Plan. Whilst the site is not remarkable in itself, the role it plays in the setting and separation of the two settlements does add to the intrinsic character and beauty of the countryside and it follows that the proposal also fails to accord with policy SP7 of the Local Plan and paragraph 180(b) of the National Planning Policy Framework (the Framework).

Housing Land Supply

24. The HLS SoCG sets out that both parties agreed that the base date for calculating the five-year supply for the purposes of the appeal runs from 01 October 2023. It is also agreed that the Local Plan is less than five years old and that the housing land supply should be calculated against the housing requirement set out within policy SP1. That results in a base requirement of 1,967.5 dwellings per annum, based on the overall housing requirement of 39,350 divided by 20; that being the period of the plan.
25. Notwithstanding that the Local Plan is less than 5 years old it is agreed that paragraph 76 of the Framework does not apply, having regard to the transitional arrangements set out in footnotes 40 and 79. Based on the delivery of housing over the previous five year period⁴, the parties agree that the Council is not subject to Housing Delivery Test Measures and it is also agreed that the 20% buffer does not apply.
26. The disagreement between the parties essentially relates to two things. The first relates to how past over-supply of housing should be considered. The Council contends that it should be spread across the remaining plan period to 2035, whereas the appellant considers that the housing requirement should not be reduced by taking past over-supply into account at all. The effect of that difference is shown in the tables at paragraph 2.5 of the HLS SoCG. Under the Council's calculation, that results in a five-year requirement of 9,075 dwellings per annum or 1,815 dwellings per annum, whereas the appellant contends that the five-year requirement is 9,838 or 1,968 dwellings per annum (decimals rounded up).
27. The second issue relates to the extent of the deliverable supply and whether the Council can satisfactorily demonstrate that specific sites are deliverable within the 5 year period. The Council contends that it can demonstrate a deliverable supply of 10,513 dwellings whereas the appellant considers the figure is 7,477 dwellings. I shall address each site in question below.
28. In terms of the first issue, paragraph 77 of the Framework states that national planning guidance provides further information on calculating the housing land supply, *including circumstances in which past shortfalls or over-supply can be addressed*. However, the Planning Practice Guidance (PPG) has not yet been updated since the publication of the revised Framework and there is presently no guidance within it in relation to past over-supply.

⁴ As shown in the table at paragraph 1.6 of the Housing Land Supply Statement of Common Ground

29. Judging from the wording of paragraph 77 of the Framework, one could conclude that the intention is that past over supply could be accounted for when calculating the five-year supply but only in particular 'circumstances'. Without knowing what those circumstances are it is difficult to draw a definitive conclusion and it is left to a matter of judgement.
30. The appellants maintain that the Council's approach is contrary to the Government's stated aim of significantly boosting the supply of housing, as set out at paragraph 60 of the Framework and that the housing requirement of 39,350 over the plan period is a *minimum* requirement, as opposed to a maximum figure. There is some logic in that argument. However, the Council's suggested approach of spreading the past over-supply over the remaining plan period does not dictate that further housing beyond that minimum should or would not be approved.
31. That would be a matter for the planning balance of any individual scheme. The fact that more dwellings have been approved and developed than required by the Local Plan over the last five years is evidence of that in action; the Council hasn't stopped granting permission for housing simply because it can demonstrate a five-year supply. Thus, it does not necessarily follow that spreading past over-supply across the plan period is contrary to the objectives of significantly boosting the supply of housing.
32. The question here is what the starting calculation is, not what the end result is in any given application. In that regard, the system is plan led. The Local Plan has identified a defined need for a specific number of dwellings over a 20 year period and identified a strategy as to how that need will be met, including the allocation of specific sites and locations for growth. I can understand the Council's concern that a failure to account for over-delivery against those targets early in the plan period could have consequences for the plan led strategy.
33. In other words, if sites are delivered in the early years of the plan at a faster rate than anticipated, it would have the effect of diminishing the stock of identified sites and land for housing over the remaining plan period. If that delivery is not accounted for when assessing the need for further housing over the remaining plan period then it would clearly hinder the Council's ability to demonstrate a five-year supply in future years. That could throw the principle of a plan led system into doubt because of the implications of the tilted balance, as per paragraph 11 of the Framework.
34. It would seem perverse if a Council that has an up-to-date Local Plan and positive approach to growth in the early years of the plan was more likely to find its policies out of date later in the plan period on account of taking a proactive approach to development. In that sense, I can understand the logic for spreading early over-supply over the remaining plan period because the effect will be to ensure that the minimum requirement over the plan period as a whole is being met in accordance with the strategy and locations for development identified in the Local Plan.
35. The Local Plan was adopted in July 2021 under transitional arrangements set out in the 2019 version of the Framework which were such that the housing need calculation was not based on the standard method, as would now be the starting point for need calculations, as per paragraph 61 of the Framework. According to the appellants the annual requirement under the standard method

would be 2,240 dwellings per annum which is significantly greater than the requirement in the Local Plan. They also point to policy SP1a of the Local Plan which required the Council to undertake a partial review of the plan within 6 months of adoption to identify opportunities for further growth. In the interim, the appellants contend it would be wrong to spread past over-supply across the remaining plan period, because it would exacerbate a shortfall when measured against needs as assessed by the standard method and fail to significantly boost housing delivery.

36. In line with paragraph 77 of the Framework, housing supply should be demonstrated against the requirement set out in the development plan or, where policies are more than five years old, against local housing need. In my view one of the key reasons for paragraph 77 seeking to respect the needs assessment in the Local Plan for a period of five years would appear to be to reflect the significant effort and resource that goes in to producing an up-to-date plan. If the basis upon which a local plan was produced was cast aside at every subsequent change in national planning policy there would be little incentive to undertake that significant task.
37. From what I was told at the Hearing and on reading the relevant extract of the Local Plan, the requirement to undertake a review under policy SP1a was not simply related to housing numbers but was linked to government decisions about strategic infrastructure. The Council maintained that infrastructure has not been forthcoming so there was no basis to review the plan in terms of the delivery of additional housing. Insufficient information is before me to understand the complexities of that but it is clearly a multi-faceted issue and the policy does not, in itself, provide a clear reason not to take account of past over-supply.
38. Consequently, I am minded to agree with the Inspector who determined the Meppershall appeal⁵ who noted that assessing the future housing need beyond the five year period that is a separate undertaking for it to consider outside of this appeal. The outcome of that review is not known at this time and it may well be that future government policy in relation to housing delivery may change again in the interim period.
39. For all of those reasons, I am satisfied that it is reasonable for the Council to take account of past over-supply in the way that it has. As set out in the HLS SoCG, I shall assess the Council's housing land supply on the basis of an annual requirement of 1815 dwellings, or a five-year requirement of 9,075 dwellings.

Disputed Sites

40. The definition of 'deliverable' is set out in Annex 2 of the Framework, with further information relating to the type of evidence that may be included to demonstrate deliverability provided at paragraph 007 of the PPG⁶. That list is not a definitive list and other information may be relevant. However, what is clear is that firm evidence, beyond general assertion, is required to satisfy the test of deliverability.

⁵ APP/P0240/W/23/3317603

⁶ Paragraph: 007 Reference ID: 68-007-20190722

41. The list of disputed sites has grown substantially since the appellants submitted their initial evidence and there are 19 sites in dispute as set out in the HLS SoCG.
42. *HT014 – Site 4, Land East of Biggleswade* This relates to site 4 of a larger strategic allocation for over 2,000 dwellings. The site is expected to deliver 354 dwellings of which 150 would be within the next 5 years according to the Council. Phases 1 to 3, comprising 1,450 dwellings were completed by the end of 2021, a large proportion built by Taylor Wimpey who, the Council contend, will develop site 4. All pre-commencement conditions are discharged and a planning performance agreement was signed in late 2022. In the Meppershall appeal the appellant argued that the information on Taylor Wimpey's website was out of date, but the Inspector at that time was content that the Council had applied sufficient caution to its projections and made no deduction as a result.
43. Since that time the appellant notes that Taylor Wimpey have removed reference to the site from its website and no Reserved Matters (RM) application has been submitted. There is little evidence to support the Council's contention that a RM is imminent. A Planning Performance Agreement (PPA) from 2022 is referred to but it is not provided. I note that public engagement was said to have taken place in 2022 but no real explanation of the reason for not progressing from that point to the submission of an application has been provided. On the face of it that would appear strange if there were no impediments to developing site 4, given that the housebuilder had a significant role in developing sites 1 to 3. There is no information from the developer themselves to explain their intentions.
44. Mr Hughes, for the Council indicated at the Hearing that the information the Council has indicates that an application will be forthcoming. Whilst the Council may be content, the problem is that the information presented to me does not paint a clear picture to give confidence that the site will be delivered within the five-year period and I shall delete the 150 dwellings from the projected 5 year supply.
45. *HT057 – North of Houghton Regis (Site 1)* Part of a wider site with outline planning permission (OPP) for 5,150 dwellings. The Council includes the delivery of 615 dwellings in the 5 year period, with delivery expected to commence in 24/25. The site was in dispute at both the Meppershall and Stotfold⁷ appeals, the Stotfold Inspector retained predicted delivery but the Meppershall Inspector noted concern about the continued absence of RM applications and subsequently pushed back the expected delivery to the 25/26.
46. We are now roughly 12 months on from the date of that previous Hearing, no RM has been submitted and the developer who was on board at the time has gone into administration. The Council state that the site is in new ownership, with a national housebuilder on board and a PPA in place to submit a RM application by May 2024. However, the PPA has not been provided and the Council could not name the housebuilder due to commercial confidentiality. Whilst I appreciate potential difficulties in that respect it does not amount to clear evidence if details cannot be revealed.

⁷ APP/P0240/W/21/3289401

47. That is particularly pertinent in relation to this site because the trajectory already includes delivery of a significant number of dwellings by various national housebuilders on separate parcels HT057(a) to HT057(g). The 615 dwellings at Site 1 are additional to those sites. If the unnamed housebuilder is the same as one of those already bringing forward development on one of those other sites it is not clear if they would also bring forward this site concurrently.
48. Somewhat strangely in that context, the Council's trajectory still includes delivery on site in 2024/25. Mr Hughes accepted at the Hearing that was optimistic and that it could be pushed back by 12 months. There is evidence of work progressing at the site, including on the Design Code, the Masterplan has been approved and a mechanism for dealing with impacts on the Chilterns Beechwood SAC has been agreed. However, even if a RM application was to be submitted this year, it would take time to determine and discharge conditions before a start could be made on site.
49. More fundamentally, given the absence of detail regarding the present developer and PPA, I do not have sufficient information to be satisfied that development will come forward on this parcel of the wider site, in addition to the projected development on other sites. Without such information I deduct the 615 dwellings from the projected supply.
50. *HT116 – Land South of The Wixams* This site benefits from outline planning permission, granted in August 2023 and is adjacent to the strategic Wixams site which has successfully been developed. No RM application has yet been submitted but the Council projects 180 dwellings will be delivered in the five-year period.
51. The Council has provided a pro-forma from the site owner O&H who developed the Wixams site and have experience in bringing forward large strategic sites in Bedfordshire. Whilst information is limited and no RM has yet been submitted, it is reasonable to have some degree of confidence in the delivery schedule given the success of the neighbouring development and the absence of any obvious constraints. In my view that sets the site apart from some other strategic sites where there is little evidence of progress or any past record of delivery. Accordingly, I am satisfied that the 180 dwellings can remain in the projected supply.
52. *HT117 – The Wixams* This relates to land at 'Village 3.2 & 3.3' which formed part of the original outline for up to 2,000 dwellings in the Central Bedfordshire section of The Wixams. 427 dwellings are proposed for the parcel in question of which the Council project 135 will be delivered within the final 2 years of the 5 year period. The appellant has queried why the proposed dwellings are included when the Council accounts for 930 dwellings from the same developer at the Wixams elsewhere on the trajectory. However, the trajectory makes clear that the other parcels relate to Village 2 and Parcel 3.1 so it would appear that different sites are referred to, notwithstanding that they may be the same developer.
53. No RM application for the houses themselves have yet been approved but RM details for road infrastructure have been approved, as have Design Codes which were a pre-requisite for RM applications. However, as with the Inspector in the Meppershall appeal I am satisfied that the evidence of significant activity on the Wixams site, plus the fact that the projected dwellings are at the back

end of the five-year period is enough for the dwellings to remain in the projected supply. I note reference to information from Barrat Homes to the effect that build out rates have slowed slightly to account for current market conditions but such matters will inevitably fluctuate over a five-year period and am not convinced that information, which is a present snapshot in time, is enough the discount the dwellings from the supply.

54. HT134(i) – Jewson Site, Beale Street A full planning application was submitted to the Council in December 2021 for 51 dwellings, all of which are included by the Council in its projected 5 year supply. A resolution to grant permission was made in July 2023, subject to a s106 agreement.
55. The Council expects the agreement to be signed in summer 2024 but little evidence is provided to support that nor is there any evidence to explain what is behind the delay or why it is now close to being resolved. It is reasonable to assume there must be some significant issue for an application for a relatively modest number of dwellings to take over a year and a half to have a resolution to grant and then for the s106 agreement to take such a long time to agree. It was still unsigned at the time of the Hearing.
56. The absence of any clear information gives me little confidence that the applicant is genuinely progressing the scheme or that it is reasonable to include the site within the 5 year supply. Clear evidence of deliverability is required when the only evidence to date is of delay. Consequently, I shall remove the projected 51 dwellings from the projected supply.
57. HT152(a) – Land Adjoining Taymer Nursing Homes, Barton Road, Silsoe Outline planning permission for the 165 unit extra care development was approved in April 2023. No RM application has yet been submitted and the appellant maintains that no clear evidence of progress in that regard has been presented. However, conditions attached to the outline permission are in the process of being discharged, including condition 32 which relates to measures to implement a speed restriction on the adjacent highway, in addition to the provision of a pedestrian and cycle crossing. According to the Council this is a pre-requisite for the site being developed and a key element of the scheme. I have no reason to doubt that position.
58. The fact that work has progressed on discharging key conditions shortly after the grant of outline consent does give me assurance that there is a clear intention to submit the RM application and progress the site. The scheme is predicted to be built out all at the same time, currently estimated in the year 25/26. Even if progress was to slip, there is sufficient confidence that it will be delivered in the five-year period.
59. HT152(c) – Land at 102 Markyate Road This is a residential care village for 158 dwellings, which benefits from full planning permission which, according to the Council, was implemented in August 2023. The appellant disputes that but the Council state that commencement works were inspected by a planning officer and a Building Control Notice has been approved. Whilst my decision is not a verification on the legality of any start, I have no reason to doubt that version of events or the Council's position in this case. In line with the Framework, all sites with full planning permission should be considered deliverable unless there is clear evidence to the contrary. At this stage there is no evidence the site will not be developed within the 5 year period and I shall therefore count the projected 158 dwellings within the 5 year supply.

60. HT157(a) – Land South of Arlesley Road, Stotfold The site benefits from outline planning permission for 316 dwellings which was approved, at appeal in 2022. The Council includes 142 in the 5 year supply. The Council notes that Mr Pycroft appeared for the appellant at that Hearing and made representations to the effect that the site would come forward within 5 years whereas he is now contending the opposite. Whilst that may show something of the nature of things in respect of housing land supply evidence, it is not a clear indicator that the site will be delivered. Circumstances can and do change over time.
61. No RM application has been submitted as yet but work has progressed in terms of discharging conditions and a non-material amendment to the outline permission was granted in January 2024 to enable the phasing of the site to be altered. This does show that there is a clear intention to develop the site in my view. The Council states that Cala Homes are the housebuilder involved and whilst the appellant maintains they do not have a contract, the fact that significant work is being progressed with matters of conditions and phasing does give me confidence that the Council's projections can be relied upon in this case, particularly given that the build out rates towards the back end of the five-year period are modest and any slippage on the 30 dwellings projected in the first year could be accommodated later in the five-year period.
62. HT206 – Marston Vale New Villages A very large strategic site for which an outline application for up to 5,000 dwellings was submitted in May 2018. It remains undetermined but the Council have included 320 dwellings from the site in the 5 year trajectory. The trajectory identifies no barriers to delivery but that belies the length of time the outline application has been pending. It is not unreasonable to assume there must be significant barriers if the application has been with the Council six years without a decision being made.
63. I understand one reason for the delay was that the baseline data, particularly in relation to highway matters needed to be updated due to the age of the application. That is a symptom of the age of the application, as opposed to an indication that those matters are likely to be resolved. Re-consultation on the highway evidence is expected in April 2024 but it remains to be seen what the outcome of that will be. The Stotfold appeal decision refers to an outstanding objection from National Highways. It is not clear if those matters have been resolved.
64. I have been referred to a delivery trajectory for the site prepared by David Lock Associates which anticipates a grant of outline planning permission in October 2024, with delivery commencing on site 18 months later. Given that the matter has not yet been reported to committee and that Heads of Terms for a s106 agreement are still being discussed, a grant of planning permission by October seems optimistic, particularly in the context of the delays to date. More fundamentally, the information presented does not explain why the outline application has taken 6 years and counting to determine. What are the key issues holding up the grant of permission and what is there to suggest that those have been resolved? I find that difficult to ascertain on the information before me.
65. Even if outline permission was granted, Design Codes would need to be prepared and agreed prior to RM applications being submitted. Whilst an 18 month period from the grant of outline permission to commencement on site may be possible in theory, I have little confidence that would be the reality in

relation to what is clearly a complex site, given the history of delays to date. Overall, the evidence does not present a clear picture that the 320 dwellings are deliverable within a 5 year period and I shall remove them from the projected supply.

66. HT209 – Land Adjoining Lewis Lane, Arlesley Outline planning permission was granted for up to 80 dwellings in April 2021. I understand that the s106 agreement associated with that permission included a commitment from Taylor Wimpey to a build programme through which they would construct 45 dwellings by 25 April 2025.
67. A RM application for 71 dwellings has now been submitted which demonstrates a commitment to taking the site forward. Whilst consultation responses indicate that some details need to be resolved they would not appear to be fundamental to the point where they are likely to significantly delay approval and construction on site. As noted in the Stotfold appeal, the trajectory has room for some slippage given that construction is likely to take place soon after the RM is approved. Consequently, I am satisfied that these 71 dwellings can be retained in the deliverable supply.
68. HT213 – Land to the east of Barton Le Clay This site is allocated for 560 dwellings, with 230 included within the Council's five year supply. In the Meppershall decision, the Inspector noted that the outline application for 560 dwellings had a resolution to grant, but acknowledged there had been delays in agreeing the Section 106 agreement. In the light of substantial delays in signing the s106 he found that delivery of dwellings was realistically at least two years further away than suggested by the Council, who were predicting a start in 23/24.
69. The Council's initial evidence for the present appeal was that the s106 was due to be signed in November 2023 but it remained incomplete at the time of the Hearing in May of this year. Given that the resolution to grant permission was back in July 2022, we are nearly 2 years on with no real explanation as to what the reason for the delay is. I can only assume it must be a fundamental issue. In those circumstances it is surprising that the Council's trajectory still assumes delivery in 24/25, for a large site that does not have outline permission, with a history of delay.
70. Mr Hughes for the Council accepted at the Hearing that trajectory was "wholly unrealistic" and suggested delivery should be put back by 2 years. However, given the substantial delays and the lack of clear evidence as to what has caused those delays, I have little confidence that the site is progressing at all. Certainly, the evidence does not present a clear picture of a site that is going to be developed within the five-year period. Accordingly, I shall remove the 230 units from the projected supply.
71. HT216 – Land on the South East of the Greenway A RM application for 66 dwellings is currently with the Council and amended plans in relation to that application have been submitted which seek to address concerns raised by a number of statutory consultees. The case officer for that application was present at the Hearing and confirmed her view that there were no fundamental concerns with the application to prevent a recommendation for approval, which I am told is likely to fall under the Council's delegated scheme. On the basis of that up to date information I am satisfied that the projected start on site in the 26/27 period is realistic and shall retain the dwellings in the five year supply.

72. HT218 – Land South of Fairground Way Phase one of the site, for 20 dwellings, has been constructed and outline planning permission has been granted for phase 2, which is for 45 dwellings, 25 of which are included in the projected supply. The Council maintain that the site is now in the control of a housebuilder but cannot name the housebuilder for confidentiality reasons. They anticipate an application in 2024.
73. I recognise that the site wasn't initially challenged by the appellant but that is not evidence of deliverability. Moreover, the information provided by the Council falls some way short of the anticipated level of information relating to delivery set out in the PPG. There is no named developer, no written agreement or PPA and no information as to why there has been a delay in bringing forward the site until now. The appellant contends that the outline planning permission was submitted in 2018 and is still pending determination. The Council has not provided a decision notice or any evidence to dispute that. The first phase was constructed under a separate full permission.
74. The length of time taken to determine that application raises questions as to what the issues with delivery are. If it was unconstrained one would have expected it to come forward faster, especially as the first phase has been developed. I recognise that commercial sensitivity can be an issue but, at the same time, the level of information provided is not enough to give me confidence that the site will be developed within a five-year timeframe. As such, I shall discount the 25 dwellings from the projected supply.
75. HT223 – Land Off Eaton Park The site has outline permission for 58 dwellings and a RM application is currently with the Council. The appellant refers to the fact that objections have been received to that application but that is not uncommon and the case officer who was present at the Hearing did not consider they were insurmountable issues, given that the principle has been established at outline stage. When the appellant challenged the inclusion of the site no RM had been made.
76. A named housebuilder is involved and on the basis of the evidence before me it is reasonable to include the dwellings in the 5 year supply.
77. HT230 – Land to the West of Midland Mainline Railway The site has OPP for 400 dwellings granted in December 2022. The Council projects that 305 dwellings will be delivered within the 5 year period. A RM application for 136 dwellings in Phase 1 was submitted in 2023 and that has now been approved, following amendments which reduced the number of dwellings to 133. The appellant does not dispute that element will come forward but contends that there is insufficient evidence that any dwellings beyond that number will be delivered in the five year period.
78. The Council's position is that a RM application is expected for phase 2 and that Crest Nicholson are committed to bringing the site forward. I have no reason to doubt that or to doubt that the site will be brought forward. The question is what evidence there is to support the Council's assertion that 305 dwellings will be delivered within 5 years. No phasing plan or trajectory from the developer is before me and it is difficult to ascertain how the Council has arrived at that figure, given that it doesn't specifically relate to the number of dwellings in the RM application. If the Council has more information in relation to likely phasing it hasn't provided it with the current appeal. Accordingly, there is no clear

evidence that development beyond Phase 1 will come forward within 5 years and I shall deduct 172 dwellings from the projected supply.

79. *HT237 – Great Thickthorn Farm (Wixams Southern Extension)* A large site planned for 650 dwellings and creation of a country park. The Council estimates delivery of 300 units within five years. In the recent Meppershall decision, the Council had included 375 dwellings in the anticipated supply. The Inspector noted slippage in the anticipated timescale for delivery and also that the stated phasing of the RM applications, with the first for 121 dwellings and a second for Phases 2 and 3 being 120 dwellings, also did not amount to the 375 total units included in the Council's trajectory. On the basis that there was no evidence that any development beyond those phases was likely to come forward he removed 134 dwellings from the supply.
80. The information provided does suggest that the developer, who constructs housing for rent, is moving forward and a key issue in respect of highway matters, linked to condition 6 of the outline approval, has been discharged. A RM application for the 'gateway' phase of 121 dwellings is expected in summer 2024, with phases 2 & 3 for 120 expected 3 months after that.
81. A PPA is in place but the timescales within it have slipped considerably. The PPA anticipated that the first RM application would be submitted in November 2021, followed by a second in March 2022 and a third in May 2022. It is therefore clear that the PPA is out of date and unreliable for the purposes of predicting delivery timescales. Further, the Council's evidence to the Stotfold Inquiry was that RM applications would be submitted in the summer of 2022. We are now 2 years down the line and applications are still 'expected' but no clear evidence of timescales is provided.
82. The Council's evidence also appears to have ignored the Inspector's finding in the Meppershall appeal in respect of the fact that the anticipated number of houses in the anticipated RM applications for phases 1 to 3 does not add up to the number of dwellings in the projected supply, yet there is no evidence at all about any subsequent phases. Consequently, at best, I could only include 241 dwellings in the supply.
83. However, fundamentally the Council's trajectory doesn't appear to be based on the actual number of dwellings proposed in the applications and it is difficult to understand why it assumes that 300 dwellings would be constructed across the 5 year period. On the basis of what is before me it appears to be a finger in the air calculation. There is no breakdown based on the actual number of dwellings proposed in the RM applications and no up to date information from the developer as to when they expect to be on site. Accordingly, whilst some progress appears to have been made, I have difficulty including any of the proposed dwellings in the 5 year supply on the basis of a lack of clear evidence and the contradictory nature of that evidence. Thus, I deduct 300 dwellings from the Council's predicted supply.
84. *HT256(a) – Henlow Greyhound Stadium* The site forms part of a wider allocation (HAS46) and benefits from outline planning permission. The Council contends that a Reserved Matters application is imminent and that the applicant is engaging in a Planning Performance Agreement. However, that PPA has not been provided and the Council states that the developer cannot be named at present due to commercial confidentiality.

85. As with a number of sites this leaves me in a position where the Council contend that matters are progressing but there is little written evidence to support its position. In essence, what the Council is asking me to do is take its word for it. The information provided undoubtedly falls short of that envisaged in the PPG in terms of demonstrating that a site is deliverable.
86. However, unlike some other disputed sites where there is little evidence at all this site is part of a larger site. Phase 1 is nearly complete which shows that development is progressing in the area. Moreover, it is not a particularly large site, at 75 dwellings, no obvious constraints have been identified and the dwellings are not predicted to come forward until the 2026/27 period. In that context, notwithstanding the lack of written evidence, I am just about satisfied that the site will come forward within that period and the 75 dwellings remain in the 5 year supply.
87. HT261 – Land Off Flitwick Road, Westoning The site is allocated for 135 dwellings but a hybrid application for 148 dwellings, 133 for full planning permission and 15 self-build dwellings in outline was approved by the Council in March 2023. Work on site commenced in December 2023. The dispute relates to the 15 self-build units.
88. Whilst detail is limited I understand that the Council has a waiting list for self-build plots and the lack of supply of such plots was raised by Mr Pycroft who appeared for the appellant in the Stotfold appeal. In those circumstances there is no reason to suppose the self-build element will not progress and, even if the plots weren't taken up, I understand that the s.106 agreement allows for the reversion to market housing. For those reasons I am satisfied the 15 dwellings can remain in the 5 year supply.
89. HT262 – West View Farm, Westoning The Council resolved to grant planning permission for 99 dwellings in December 2023 and I am told that Heads of Terms have been agreed in respect of the s106 agreement but it has yet to be signed. The Council includes 70 of those dwellings in the five-year supply. The site is under the control of Connolly Homes and the Council anticipates that a RM application will be made shortly after the s106 is signed.
90. However, at the time of writing, the site does not benefit from planning permission, even in outline form. Some time has passed since the committee resolution and it is not clear why there is a delay in completing the s106 agreement. I note that the March 2023 Housing Trajectory did not anticipate any delivery from the site until 28/29 whereas the latest trajectory includes delivery from 26/27 onwards.
91. Given the fact that permission has not yet been granted and the delay in signing the s106 no clear evidence has been presented to indicate why the Council considers the site will now come forward sooner than previously expected. In the absence of any clear evidence to support the anticipated timescale I am not satisfied that the site should be included within the 5 year supply and deduct 70 dwellings accordingly.

Conclusion on Housing Land Supply

92. For the reasons set out above, I shall deduct 1,933 dwellings from the Council's claimed supply of 10,513 dwellings. The resulting deliverable supply of 8,580

dwelling represents a 4.73 year supply when set against the five-year requirement of 9,075 dwellings.

93. The Council maintain that a sense check should be conducted against the generally positive delivery position where annual provision has consistently exceeded the Local Plan requirement. To some extent, evidence of delivery on particular strategic sites is relevant and I have taken it into account in my findings above. However, I must also look at the evidence before me in relation to each site and the evidence presented, particularly in relation to some of the larger strategic allocations, was insufficient to give confidence that development will come forward in light of past delays and a lack of detailed information from the current developers regarding phasing.
94. Time has moved on since the findings of the Inspector in the Meppershall appeal, without much movement on some of the sites in question. Whereas that Inspector found the evidence presented to him put the Council marginally above the required 5 year supply, I find the Council is on the other side of the line from the information before me.

Other Matters

95. Interested parties have referred to the effect of the development on highway safety and traffic generation and the impact on neighbouring residential properties from overlooking, noise and disturbance. In line with the assessment of the Council I am satisfied that sufficient distance is available to prevent overlooking from the houses, which would also be screened by proposed landscaping. There is nothing to indicate the proposal would generate undue noise and any construction activity could be managed by a suitably worded planning condition if I was minded to allow the proposal.
96. The road is relatively straight with good visibility at the access point and I am satisfied the highway could accommodate the level of traffic arising from what is a modest proposal in respect of the number of dwellings.
97. The development would bring social and economic benefits through the construction of new dwellings which will add to the housing supply, including affordable housing and custom build housing, for which there is a defined need. I give moderate weight to those matters, commensurate with the scale of the development proposed which has been modified and the number of dwellings reduced in an attempt to overcome the previous Inspector's concerns. Whilst the proposed open space would create an attractive environment, it would primarily serve residents of the proposed estate rather than having any significant wider benefit in terms of recreation. It would enhance biodiversity but that net gain is now an accepted requirement for all new development and the weight I attach is modest in that context.
98. The location of the site would also facilitate easy access into Clifton which has a range of shops and services. Whilst local and national planning policy would require all new development to be suitably located to facilitate travel by a variety of modes it is, nonetheless, a positive matter that weighs in favour of the proposal.

The Planning Balance and Conclusion

99. The proposal would cause harm to the character and appearance of the area on account of the incursion into countryside which plays a key role in maintaining

the individual identity of Clifton and Henlow. Given the importance of maintaining the individual identity of two historic settlements the harm that would arise from the resulting coalescence is a matter to which I attach significant weight.

100. The proposal would contravene policies SP5, SP7, EE5 and HQ1(1) of the Local Plan, as set out above. In my view it is clearly contrary to the aims of the development plan, taken as a whole, having regard to the lack of compliance with those locational and design related policies.
101. Due to the absence of a clearly demonstrable five-year supply of housing land, paragraph 11(d) of the Framework applies. For the purposes of this appeal, the policies of the development plan that are most relevant for determining the proposal should be considered out of date and paragraph 11(d)(ii) applies. That means that planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
102. The Framework aims to support the Government's aim of significantly boosting the supply of housing and the proposal would contribute towards that goal, particularly in light of the shortfall in the Council's supply. It would make small contributions to affordable housing and custom build housing, both of which have defined needs in the area. The site is also in a relatively accessible location, in line with the broad aims of section 9 of the Framework and the open space would bring modest benefits in terms of recreation and biodiversity.
103. Overall, the benefits are moderate on account of the scale of the scheme and the context described above. If the application site was simply an ordinary field on the edge of a settlement without any wider function, it is likely that the harm would not significantly outweigh those benefits. However, whilst ordinary of itself, this particular field plays an essential part in the broader function of maintaining the separation between Clifton and Henlow. Maintaining the individual identity of those settlements is important to the wider character of the area and the resulting harm is a matter to which I attach significant weight, having regard to paragraph 180 of the Framework.
104. The separation between the two along the key road frontage is limited and finite. Notwithstanding the absence of a five-year supply of housing the irreversible harm arising from increased coalescence would significantly and demonstrably outweigh the moderate benefits associated with the scheme. Accordingly, taking the policies of the Framework as a whole the balance does not dictate that permission should be granted.
105. Moreover, whilst paragraph 11(d) is engaged, the policies of the Local Plan that are most relevant for determining the application are broadly consistent with the Framework in respect of the need to protect the character and appearance of the area and recognise the intrinsic beauty of the countryside and individual character of settlements. In the circumstances I attach significant weight to the conflict with those policies and the material considerations put forward, including the application of the Framework, do not suggest that a decision should be taken other than in accordance with the development plan.

106. For the avoidance of doubt, I would have reached the same conclusion regardless of my approach to the issue of whether it was reasonable for the Council to spread past over-supply across the remaining plan period. In other words, even taking the appellants' position, which would have resulted in a greater shortfall in the five-year supply, the harm arising from the coalescence between the two settlements and the erosion of their individual identity significantly outweighs the modest benefit associated with the number of dwellings proposed.
107. The previous Inspector in relation to the site essentially reached the same conclusion⁸. Even though the scheme has been amended, those amendments do not change my findings on the suitability of the site for residential development, given the specific constraints.
108. For the reasons given above I conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR

⁸ Paragraph 28 of APP/P0240/W/18/3203211

APPEARANCES

FOR THE APPELLANT:

Mr Tim Northey	Appellant
Mr Ben Pycroft	Emery Planning
Mr Ben Wright	Aspect Landscape
Mr Robert Webb	Webb Developments

FOR THE LOCAL PLANNING AUTHORITY:

Mr Phillip Hughes	Consultant, PHD Limited
Ms Annabel Robinson	Principal Planning Officer

INTERESTED PERSONS:

Mr Mike Talbot	Local resident/ Clifton Neighbourhood Plan Steering Committee
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Documents Submitted at the Hearing

- 1) Extract from Central Bedfordshire Local Plan – paragraphs 5.4 & 5.5 & Policy SP1a.
- 2) CIL Compliance Statement produced by Central Bedfordshire Council.