

Appeal Decision

Inquiry held on 13 - 16 August 2024

Site visit made on 14 August 2024

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6/11/2024

Appeal Ref: APP/P0240/W/24/3340777

Land North of Biggleswade, Biggleswade, SG18 0HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Hallam Land Management against the decision of Central Bedfordshire Council.
 - The application Ref is CB/19/04301/OUT.
 - The development proposed is up to 416 dwellings including affordable housing; green infrastructure accommodating landscaping, allotments, community orchard, public open space, children's playspace; new roads, car parking, cycleways and footways; associated infrastructure, including a sustainable drainage system; vehicular access to be secured from Furzenhall Road.
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Decision

1. The appeal is allowed and planning permission is granted for up to 416 dwellings including affordable housing; green infrastructure accommodating landscaping, allotments, community orchard, public open space, children's playspace; new roads, car parking, cycleways and footways; associated infrastructure, including a sustainable drainage system; vehicular access to be secured from Furzenhall Road at Land North of Biggleswade, Biggleswade, SG18 0HB in accordance with the terms of the application, Ref CB/19/04301/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by the Appellant against Central Bedfordshire Council. This is subject of a separate Decision.

Preliminary Matters

3. The application to which this appeal results was made in outline with details of access only and all other matters being reserved. I have determined the appeal on this basis.
4. The appellant has submitted a signed section 106 obligation that the parties agree makes appropriate provision for necessary infrastructure improvements and, amongst other matters, affordable housing. As such, the

second reason for refusal detailed on the decision notice is no longer at dispute.

5. I have included a second main issue, relating to the effect of the appeal scheme on the wider highway network in Biggleswade as a result of evidence submitted by Biggleswade Town Council, a Rule 6 Party, which appeared at the Inquiry and gave evidence.

Main Issues

6. The main issues are:

- I. Whether or not the appeal scheme would benefit from appropriate access, with particular regards to the loss of car parking, cyclists use of Furzenhall Road and the single point of access in the event of an emergency.
- II. Whether the wider highway effects of the appeal scheme would have an unacceptable impact on highway safety, or whether the residual cumulative impacts on the road network would be severe.

Reasons

Whether or not the appeal scheme would benefit from appropriate access

7. The appeal site is allocated¹ for approximately 401 residential units. In accordance with that policy, a Development Brief was submitted, updated in accordance with the council's published Guidance and 'endorsed' by the council at committee. The allocation and development brief identified Furzenhall Road as the single point of access to the development. I note that this was identified by the Examining Inspectors' report² as being subject to other relevant policies of the development plan to ensure highway safety.
8. The Statement of Common Ground between the parties agrees that the appeal scheme is in accordance with the allocation and the development brief. However, a clear consequence of the appeal scheme being accessed via Furzenhall Road, currently a quiet residential street, would be an increase in traffic travelling along the road.

Loss of car parking

9. Measures³ proposed by the appellant to mitigate the highway effects of the appeal scheme, reduces the availability of on street parking on Furzenhall Road. Furthermore, evidence presented at the Inquiry from Local Residents described difficulty finding car parking spaces on and near to Furzenhall Road and this being a particular issue for residents with mobility issues.
10. The Road Safety Audit produced on behalf of the appellant identifies a number of highways issues that result from the appeal scheme, including but not limited to, the intervisibility of vehicles on Furzenhall Road and identified a solution of introducing parking restrictions.

¹ Policy HAS06, Central Bedfordshire Local Plan

² CD4.4 Report on the Examination of the Central Bedfordshire Local Plan, Paragraph 279

³ Furzenhall Road Traffic Calming Scheme (Drawing 1512-07-SK53)

11. In response, the appellant latterly produced a parking survey⁴ and this demonstrates that there is low parking demand on Furzenhall Road and that sufficient on street parking is available elsewhere in the immediate area of Furzenhall Road to absorb the displaced car parking demand, even if additional mitigation measures were employed.
12. Moreover, in evidence, the council did not dispute the submitted evidence and accepted that the details of the requisite mitigation measures could be controlled by a 'Grampian' style condition⁵ while noting that not all details of the scheme and its effects are known at this stage.
13. I am aware that the mitigation measures shown on the plan⁶ are indicative only and are proposed to be controlled by condition, thus additional or different measures may be employed. Nonetheless, on the basis of the evidence before me I am satisfied that the broad details and likely effects of the mitigating measures are known and thus the proposed condition that requires "general accordance" with drawing 1502-07-SK53 is reasonable in principle.
14. Furthermore, I accept that one consequence of placing an increased reliance upon on-street car parking on streets adjacent to Furzenhall Road is that existing residents of the area would to some extent be inconvenienced by an increased competition for available spaces. This would manifest itself in terms of taking longer to find a parking space, or residents having to park further away from their homes. Whilst I acknowledge that this would be an inconvenience to local residents, I do not find that this would amount to an unacceptable impact on their living conditions. Furthermore, I have no evidence before me to show that would result in indiscriminate on-street parking to the detriment of highway safety.
15. On this basis I am satisfied that the appeal scheme would benefit from appropriate access with regards the loss of car parking.

Cyclists

16. Furzenhall Road is, in part, designated as bridleway BW10 and is also part of Cycle Network Route 12 (CNR12), which runs from Enfield Lock to Spalding. I saw at the site visit that the Road is used for a range of recreational activities including by young cyclists, dog walkers, walkers and runners.
17. Submitted plans show that from the junction with Potton Road, Furzenhall Road has a carriageway width of circa 6.0m with 2.5m wide footways on either side that reduces on one side to 2.0m further north.
18. At the edge of the appeal site, for an approximately 40-meter transition section, the appellant proposes a 6.5m wide road coupled with a single 2m footway. I note that there is no separate provision for cyclists and horse riders.

⁴ Parking Beat Survey, Appendix B Proof of Evidence of Julian Clarke

⁵ Ms Barnard in XX

⁶ 1502-07-SK128

19. Within the appeal site, the submitted plan⁷ shows a continuation of the 6.5m road alongside a 4.5m wide footway and a 2.5m grass verge "for bridleway 10" before Furzenhall Road returns to its existing narrower alignment, without a footway, along which Bridleway 10 and CNR12 continues.
20. As referred to previously, the appeal scheme would result in a significant increase in the number of homes accessed off Furzenhall Road and consequently a significant increase in the volume of traffic, resulting in morning and evening peak hour two-way traffic flows of 349 and 375 respectively. The council details⁸ that the increase in volume of traffic would dissuade non-vehicular road users, such as cyclists and horse riders from using Furzenhall Road.
21. The parties have variously referred to Figure 4.1 of LTN 1/20⁹ that categorises the suitability of roads for cyclists in the context of the speed limit of the road, motor traffic flow and the cycling infrastructure. Furzenhall Road, at 30mph, is categorised¹⁰ as being "not suitable for all people and will exclude some potential users and/or have safety concerns". I note that this is a designation that is applied to much of CNR12.
22. The effect of the appeal scheme¹¹, principally resulting from the increase in volume of traffic on Furzenhall Road from 1498 to 3780 two-way Annual Average Daily Traffic, is a degrading of this classification to "suitable for few people and will exclude most potential users and/or have safety concerns".
23. In mitigation the appellant proposes¹² a number of traffic calming measures, including changes to the physical infrastructure of Furzenhall road and adjacent roads, such as raised table junctions with / without marked priorities, gateway features, and to reduce the speed limit on Furzenhall Road to 20mph.
24. The appellant adjudges that the proposed mitigation measures would result in Furzenhall Road retaining the pre-development categorisation of "not suitable for all people and will exclude some potential users and/or have safety concerns" and based on the evidence before me I am satisfied that such measures are sufficient to mitigate the adverse effects of the appeal scheme in this regard.
25. As referred to previously, I note that the appellant has not submitted a plan to show what a full scheme of mitigation would comprise but I am satisfied that these mitigation measures can be controlled by a Grampian style condition.
26. In addition, Policy T1 of the Central Bedfordshire Local Plan (the LP), amongst other matters, requires that proposals will seek to reduce the need to travel and "secure a modal shift towards sustainable forms of transport". Furthermore, that Transport Assessments demonstrate safe pedestrian and cycle links and connectivity with existing walking and cycle networks.

⁷ Furzenhall Road Bridleway Provision Plan dwg. No. CSA/2874/148

⁸ Ms Barnard EIC

⁹ CD 5.9 Cycle Infrastructure Design, Local Transport Note 1/20, July 2020

¹⁰ Table 4.1 transport proof of evidence

¹¹ Table 4.2 transport proof of evidence

¹² Paragraph 4.27 and 4.28

Criterion 3 of Policy T2 of the LP requires that development “retains or enhances existing footpaths, bridleways and cycleways links”.

27. The appeal scheme is shown on the submitted plans as enhancing parts of the infrastructure for pedestrians, cyclists and horse riders. Elsewhere on Furzenhall Road, through appropriate mitigation, the general standard of provision is retained.
28. The small section of ‘transition’ from Furzenhall Road to the proposed development would be affected by the increase in traffic but does not benefit from specific provision for cyclists and horse riders, resulting in users either riding on the road or using the pavement. Furthermore, there is only a single footway in contrast to Furzenhall Road to the South.
29. Nevertheless, I am satisfied that when considered as a whole, the appeal scheme does demonstrate safe links and connectivity, enhances and retains existing links.

Single point of access

30. Policy T2 of the LP requires that development proposals have regard to the council’s ‘Highways Construction Standards’¹³. Amongst many other requirements those standards state that “any development exceeding 300 dwellings will require a secondary all-purpose access”¹⁴ but also that all schemes will be assessed on an individual basis.
31. As referred to previously, the submitted plans show that there would be a single point of vehicular access to the appeal site from the existing highway network. An accident on the adjacent highway network could impede traffic and thus hamper access to the appeal scheme in the event of an emergency.
32. The Appellant has provided additional evidence¹⁵ with regards the accident rates on the surrounding highway network. That evidence and analysis has not been disputed by the council and the council’s witness accepted that in light of the new evidence there was a low likelihood of an accident blocking access to the appeal scheme, based on the evidence before me I find no substantive reason to conclude otherwise.
33. In the absence of any substantive evidence to the contrary and on the basis of the evidence detailed above, I am satisfied that a single point of vehicular access to the proposed development is satisfactory and is in accordance with Policy T2 of the LP in this regard.

Conclusion

34. To conclude this main issue, for the reasons detailed above and subject to conditions, I am satisfied that the appeal scheme would benefit from appropriate access with particular regards to the loss of car parking, cyclists use of Furzenhall Road and the single point of access in the event of an emergency.

¹³ Highways Construction Standards and Specification Guidance v.8 (CD5.5)

¹⁴ Paragraphs 3.5 and 3.6 of CD5.5

¹⁵ Paragraph 5.13 of Mr Thompson Proof of Evidence

35. As such, I am satisfied that the appeal scheme accords with policies T1 and T2, EE12, HQ1, of the LP in this regard, and policies BGS4, BTM1 and BTM2 of the Biggleswade Neighbourhood Plan 2022.

The residual cumulative impacts on the road network

36. The National Planning Policy Framework details¹⁶ that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."
37. Biggleswade Town Council have identified a number of Junctions in Biggleswade that "are already at or over capacity"¹⁷ with regards to the Ratio of Flow Capacity (RFC), referring an RFC of over 0.85 as typically requiring mitigation¹⁸. Furthermore, local residents have described increased journey times and queuing at junctions when moving around the town and have raised concerns that the appeal scheme would add to existing congestion of the road network.
38. The town council's evidence¹⁹ shows that the proposal would have a detrimental effect on 6 junctions over 33 arm/15 min time periods and that the queuing traffic can impede secondary accesses, potentially resulting in undesirable 'rat running' through residential roads and could lead to a rise in end-on shunts.
39. In particular, the Potton Road/Drove Road Priority Junction and the Shortmead Street/ Sun Street 3-arm mini-roundabout are identified in evidence as being impacted, with queue lengths at the latter increasing from 15 to 34 vehicles during the peak 15-minute period between 1745 and 1800²⁰ and a secondary access serving residential properties being impeded at the former.
40. However, the Appellant's own analysis examines a total of 19 junctions across Biggleswade, assessing 62 arms of the junctions over 8 different peak hour segments. The appellant notes that just 13 of these assessments take the RFC from less than 0.85 to over 0.85. This is not a significant number in the context of the road network in and around the town.
41. Additionally, the actual impacts of the additional traffic on the operation of the junctions and times for vehicles to transit the junctions are minimal. In respect of the previously referred to junctions, the appellant's evidence demonstrates that queuing traffic is expected to transit the junction with only a very short delay and the queues dissipate quickly outside of the peak 15-minute periods.
42. I note that Highways England were consulted with regards the proposals and specifically considered the A1/Hill Lane junction. The junction is predicted to be operating in excess of capacity with the appeal scheme developed but, the impact of the appeal scheme is not considered by Highways England to be severe with "relatively small increases in queue length" and no measures

¹⁶ Paragraph 115

¹⁷ Biggleswade Town Council (R6) paragraph 23.

¹⁸ CD 5.8 The Transport Research Laboratory's User Guide for Junctions

¹⁹ Mr Thompson Proof of Evidence, Table 1, p.17

²⁰ Mr Thompson Proof of Evidence

are required in mitigation. Highways England have not objected to the appeal scheme.

43. The appeal site is well located with regards existing facilities and services of Biggleswade. The site can be accessed various modes of transport, including sustainable modes such as cycling and walking, and the submitted Planning Obligation secures funds to improve the local bus service.
44. Consequently, as a result of the sustainable location of the appeal site, the limited number of junctions adversely effected by traffic generated by the appeal scheme and the limited adverse impacts of the additional traffic in terms of queuing instances and the duration to transit the effected junctions, I am satisfied that the appeal scheme does not result in an unacceptable impact on highway safety, and the residual cumulative impacts of the appeal scheme on the road network would not be severe.
45. The appeal scheme is therefore not contrary to the provisions of the Framework or policies T1 and T2 of the LP.

Other Matters

46. Biggleswade History Society have referred, amongst other matters, to the presence of the scheduled monument 'Cursus and five associated ring-ditches at Biggleswade Common' located to the north of the appeal site.
47. Historic England have not objected²¹ to the appeal scheme, and I note that the appeal scheme would not directly affect the scheduled monument due to their clear separation by some distance. Therefore, the proposed development does not hold the potential to directly impact on the archaeological remains associated with the scheduled monument.
48. Furthermore, because the appeal scheme can be seen as a logical rounding off of the built form of Biggleswade and indeed the appeal scheme is not closer to the Scheduled Monument than the existing residential properties to the east of the appeal site limiting any visual relationship, I am satisfied that the proposed development would not impact on the schedule monument.

Conditions and Planning Obligation

49. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework details that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation meets the three tests detail in the legislation. The council's CIL compliance statement sets out the detailed background and justification for each of the obligations. I am satisfied from the evidence before me that the obligations are necessary, directly related to the proposal and fair and reasonable in scale and kind to the appeal scheme. As a result, I have taken the obligations into account as part of my overall conclusion that the appeal should be allowed.
50. I have considered the conditions agreed between the parties in light of the relevant guidance contained within the Planning Practice Guidance (the PPG). Where necessary, I have amended them in the interests of precision and so

²¹ Historic England letter dated 16 May 2023

that they meet the relevant tests as set out in the Framework. With regard to Section 100ZA of the Town and Country Planning Act 1990 (as amended), the appellant has expressed agreement to the pre-commencement conditions suggested by the council and where I have modified these it has had no material bearing on their function.

51. In order to define the permission and to control the timescales for the submission of reserved matters, I have included conditions relating to reserved matters (1), the life of the permission (2 and 3), the approved plans (4), the maximum number of dwellings to be constructed on the site (5) and ensuring that the development is in accordance with approved details (6) in accordance with Policy HQ1 of the LP.
52. To ensure that the development does not harm the character and appearance of the area I have included a condition (7) requiring the preparation, approval and implementation of a Design Statement in accordance with Policy HG1 of the LP and the Central Bedfordshire Design Guide 2014.
53. I have included a condition (8) requiring the submission of a scheme to ensure that the development will connect effectively with existing rights of way in accordance with Policy EE12 of the LP and Policy BGS4 of the Biggleswade Neighbourhood Plan 2022.
54. In the interests of public safety, I have included a condition (9) requiring the submission of a fire safety scheme to include details of, amongst other matters, fire hydrants.
55. With regards ecology and the environment, I have included a condition (10) to require the submission and to control the details of a Landscape and Ecological Management Plan.
56. While details of access to have been provided, it is necessary to impose conditions (11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 42) to control specific details and timings for the provision of junction improvements, traffic calming, the access to the appeal site, parking on Furzenhall Road, cycling provision, provision within the proposed development and during construction and a travel plan in the interests of highway safety.
57. To protect existing trees on and adjunct to the site, it is necessary to impose a condition (24) requiring the submission of an arboricultural impact assessment and tree protection plan in accordance with Policies HQ1 and EE4 of the LP.
58. In the interests of maintaining a high quality of design and in the interests of the character and appearance of the area I have included a condition (25) to require the submission and implementation of a public art scheme.
59. In the interests of the environment and in accordance with Policy CC1 of the LP I have included conditions (26 and 27) relating the details and implementation of renewable and low carbon energy generation within the appeal scheme.

60. In the interests of the environment and the living conditions of the occupiers of the appeal scheme and neighbours to the site I have included conditions (28, 29 and 38) relating to noise and lighting. For the same reasons I have included conditions (30, 31, 32 and 33) regarding land contamination.
61. In the interests of the ecology I have included a condition (34) relating to the provision of a biodiversity method statement. I have included conditions (35, 36 and 39) to manage surface and storm water.
62. In order to secure to secure appropriate archaeological investigation at the site I have included a condition (37) relating to a written scheme of archaeological investigation.
63. In accordance with policy H1 of the LP and to ensure that infrastructure is provided alongside dwellings, I have included conditions (40 and 41) relating to house types, tenures and phasing.

Conclusion

64. For the reasons given above the appeal should be allowed.

Mr M Brooker

INSPECTOR

Schedule of Conditions

- 1) Details of appearance, landscaping, layout, and scale, "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos: Site Location Plan - CSA/2874/125 Rev G; Land Use Parameter Plan - CSA/2874/144 Rev F; Building Heights Plan - CSA/2874/147 Rev D; and Proposed Access Arrangement - 1512-07 - PL01 Rev D.
- 5) No more than 416 dwellings shall be constructed at the site.
- 6) Other than where expressly required by another condition attached to this permission, applications for the approval of reserved matters shall be in general accordance with the information shown on the following plans: Development Framework Plan - CSA/2874/136 Rev J; Landscape Strategy - CSA/2827/145 Rev G; and Open Space Provision Plan - CSA/2874/142 Rev G.
- 7) Prior to or alongside the submission of the first application for reserved matters at the site, a Design Statement shall be submitted to the Local Planning Authority for approval. No development shall commence at the site before the Design Statement has been approved in writing by the Local Planning Authority.

The Design Statement shall include a site-wide Character Areas Plan for the development encompassing the whole of the application site (including site access junctions and roads). The Design Statement shall include details of the following in respect of each Character Area:

Housing

- a. minimum and maximum residential densities;
- b. maximum eaves and ridge heights;
- c. minimum internal space standards for habitable rooms and total dwellings;
- d. minimum private amenity space sizes for different unit types/sizes;
- e. the design approach to waste and recycling storage and collection facilities;
- f. a palette of materials to be used in the construction of external surfaces;
- g. a palette of architectural features to be incorporated into the design of buildings;

- h. minimum separation distances between dwellings;
- i. a palette of means of enclosure;
- j. the location of and minimum amounts of play spaces;
- k. a palette of play equipment to be provided within play spaces;
- l. how affordable housing will be dispersed throughout each character area; and,
- m. typical street scenes.

The natural environment and leisure

- n. the location of and minimum amounts of landscaped areas within and between development parcels;
- o. a palette of grasses, plants, flowers and trees to be used in landscaped areas at the site;
- p. examples of how existing and proposed water features at the site will be incorporated into the development;
- q. the location of and general approach to biodiversity protection and enhancement;
- r. the landscape design approach to the Furzenhall Road entrance, Countryside Edge, Green Corridors, Open Space and Play facilities, Community facilities where relevant to that Character Area and the approach to advanced planting to form landscape buffers;
- s. the location and minimum amounts of allotments at the site, together with their design and servicing arrangements and associated facilities, where relevant to that character area; and,
- t. the location and amount of and design approach to children's formal play space; and,

Movement and access

- u. a hierarchy of streets;
- v. sections through typical streets;
- w. a palette of materials to be used in the construction of roads, cycleways and footpaths;
- x. a palette of typical street furniture;
- y. minimum car and cycle parking numbers, including electric charging points;
- z. the location of at least one bus stop and details of how a bus could enter and navigate the site and leave in forward gear.
- aa. demonstration that the design of roads is compatible with the requirements of the Central Bedfordshire Design Guide.
- bb. minimum internal space standards for garages and carports; and,
- cc. the location of and typical details of foot and cycle paths.

Applications for the approval of reserved matters shall be in conformity with the approved Design Code.

- 8) Prior to or alongside the submission of the first application for reserved matters at the site, a Public Rights of Way Scheme shall be submitted to the Local Planning Authority for approval. The Scheme shall show how the development would interact with existing public rights of way outside of the application site, to ensure that they were accessible for future occupiers at the site and that preserving their enjoyment for users of the network has been properly considered at detailed design stage.
- 9) Prior to or alongside the submission of the first application for reserved matters at the site, a Fire Safety Scheme shall be submitted to the Local Planning Authority for approval. No development shall commence at the site before the Scheme has been approved in writing by the Local Planning Authority in consultation with Bedfordshire Fire and Rescue. The Scheme shall include details of fire safety measures, including the location of fire hydrants for the development.

Applications for the approval of reserved matters shall be in conformity with the approved Scheme.

- 10) Prior to or alongside the submission of the first application for reserved matters at the site, a Landscape and Ecological Management Plan (LEMP) shall be submitted to the Local Planning Authority for approval. No development shall commence at the site before the LEMP has been approved in writing by the Local Planning Authority.

The LEMP shall include:

- a. a description and evaluation of features to be managed;
- b. ecological trends and constraints on site that might influence management;
- c. aims and objectives of management;
- d. appropriate management options for achieving aims and objectives;
- e. prescriptions for management actions;
- f. preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g. details of the body or organization responsible for implementation of the plan;
- h. ongoing monitoring and remedial measures;
- i. details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery; and,
- j. how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the biodiversity objectives of the Scheme where the results from

monitoring show that conservation aims and objectives of the LEMP are not being met.

Applications for the approval of reserved matters shall be in conformity with the approved LEMP and the development shall be carried out in accordance with it.

- 11) A. No development shall commence at the site before details of the proposed arrangements for Furzenhall Road within the site have been submitted to, and approved in writing by the Local Planning Authority. With the exception of the transitional area illustrated on drawing 1512-07 PL01 D, the arrangement shall include:

- segregated provision for pedestrians (min.2m wide) and cyclists (min.3m wide);
- an adjacent min.2m wide mown grass strip for equestrians;
- a highway suitable to accommodate buses (minimum carriageway width 6.5m);
- an adoptable 2m wide margin on the north-western side of Furzenhall Road for the purposes of lateral clearance and to accommodate services and a footway.
- The details for approval shall include appropriate and early transition arrangements from the existing highway layout outside of the red line boundary including for pedestrians and cyclists as they enter the site

No dwelling shall be occupied at the site before the scheme approved pursuant to Condition 11a above have been completed, amended as necessary by the technical and safety audit process, and opened to traffic.

- B. Notwithstanding the details shown on the submitted Development Framework Plan (plan no.CSA/2874/136 Revision J), the development shall continue the geometric parameters listed within Condition 9a) along the broad alignment of Furzenhall Road up to the northernmost access into a residential parcel.
- C. Notwithstanding the details shown on the submitted Development Framework Plan (plan no.CSA/2874/136 Revision J), beyond the northernmost vehicular access into a development parcel, the development shall provide a 3m wide, tarmacked and kerbed cycleway adjacent to and on the western side of Furzenhall Road. A min.2m wide mown grass strip shall be provided adjacent to the cycleway, furthest from the Furzenhall Road track. The cycleway and mown strip shall be provided and made available for use, prior to the use of the northern most vehicular access.
- 12) No dwelling shall be occupied at the site before a timetable for the delivery of the schemes approved pursuant to Condition 11b and 11c has been submitted to and approved in writing by the local planning authority. The timetable shall demonstrate that the works will be completed at appropriate points in the occupation of the development. The works shall be completed, amended as necessary by the technical

and safety audit process, and opened to traffic, in accordance with the approved timetable.

- 13) No development shall commence at the site before details of a Capacity Improvement Scheme for the junction of Potton Road and Furzenhall Road, including a pedestrian crossing and based broadly on the details shown on Drawing No.1512-07-PL05, has been submitted to, and approved in writing by, the local planning authority.
- 14) No more than 59 dwellings shall be occupied at the site before the Capacity Improvement Scheme approved pursuant to Condition 13 has been constructed in accordance with the approved details, amended as necessary by the technical and safety audit process, and opened to traffic.
- 15) No development shall commence at the site until details of a scheme to prevent on-street parking on Potton Road, between Furzenhall Road and Stoneland Avenue, has been submitted to and approved in writing by the local planning authority. No more than 59 dwellings shall be occupied at the site before the approved scheme has been fully implemented.
- 16) No more than 59 dwellings shall be occupied at the site before the highway works scheme at the junction of Potton Road and Havelock Road, as shown indicatively on Drawing No.1512-07-SK54 Revision A, has been completed, amended as necessary by the technical and safety audit processes, and opened to traffic.
- 17) No more than 59 dwellings shall be occupied at the site before the highway works scheme at the junction of Potton Road with Drove Road (including the works to accommodate on-street parking), as shown indicatively on Drawing No.1512-07-SK61, has been completed, amended as necessary by the technical and safety audit process, and opened to traffic.
- 18) No dwelling shall be occupied at the site before details of a traffic calming scheme for Furzenhall Road, based broadly on Drawing No. 1512-07 SK53 including the junctions of Furzenhall Road and Winston Crescent and where necessary measures to prevent on-street parking, has been submitted to, and approved in writing by, the Local Planning Authority.
- 19) No more than 99 dwellings shall be occupied at the site before the traffic calming scheme for Furzenhall Road approved pursuant to Condition 18 has been completed in accordance with the approved details, amended as necessary by the technical and safety audit process, and opened to traffic.
- 20) No more than 207 dwellings shall be occupied at the site before the traffic calming scheme for Banks Road, as shown indicatively on Drawing Nos. 1512-07-SK92 Revision A, has been completed, amended as necessary by the technical and safety audit process, and opened to traffic.
- 21) No more than 207 dwellings shall be occupied at the site before the traffic calming scheme for Lime Tree Walk, as shown indicatively on Drawing Nos. 1512-07-SK93 Revision A, has been completed,

amended as necessary by the technical and safety audit process, and opened to traffic.

- 22) No more than 49 dwellings shall be occupied at the site before the following pedestrian / cycle improvement schemes have been completed, amended as necessary by the technical and safety audit process, and opened to traffic:
- Havelock Road & Lindsell Crescent, as shown indicatively on Drawing No.1512-07-SK55;
 - Auckland Road / Drove Road / Edward Road, as shown indicatively on Drawing No.1512-07-SK56;
 - Edward Road, between Lindsell Crescent & Lime Tree Walk, as shown indicatively on Drawing No.1512-07-SK62 Revision A;
 - Crab Lane & Lawrence Road, as shown indicatively on Drawing No.1512-07-SK57 (all works, not just those labelled 'TPA Addition');
 - Lawrence Road / Havelock Road, as shown indicatively on Drawing No.1512-07-SK34 Revision A
- 23) No development shall commence at the site before a Construction Traffic Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of:
- the parking of vehicles.
 - loading and unloading of plant and materials used in the development.
 - storage of plant and materials used in the development.
 - the erection and maintenance of security hoarding / scaffolding affecting the highway if required.
 - wheel washing facilities.
 - measures on site to control the deposition of dirt / mud on surrounding roads during the development.
 - footpath/footway/cycleway or road closures needed during the development period.
 - traffic management needed during the development period.
 - means of access and egress for construction traffic and delivery vehicles (including the import of materials and the removal of waste from the site) during the development of the site.
 - details of escorts for abnormal loads.
 - temporary removal and replacement of highway infrastructure and street furniture.
 - the reinstatement of any signs, verges or other items displaced by construction traffic; and
 - banksman and escort details.

The approved Construction Management Plan associated with the development of the site shall be adhered to throughout the development process.

- 24) No development shall commence on each phase of the development before an Arboricultural Impact Assessment and a Tree Protection Plan for that phase has been submitted to and approved in writing by the Local Planning Authority.

Where relevant, the Impact Assessment and the Tree Protection Plan shall also relate to trees adjacent to, but outside of the site and/or phase where there is the potential for the development to impact them.

The development shall be carried out in accordance with the approved Arboricultural Impact Assessment and Tree Protection Plans.

- 25) No above ground building work shall commence at the site before a Public Art Scheme has been submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of:

- management - who will administer, time and contact details, time scales/programme;
- brief for involvement of artists, site context, background to development, suitable themes and opportunities for Public Art;
- method of commissioning artists / artisans, means of contact, selection process /selection panel and draft contract for appointment of artists;
- community engagement - programme and events;
- a programme for the delivery of the public art.
- funding - budgets and administration; and,
- future care and maintenance.

The development shall be carried out in accordance with each approved Public Art Scheme.

- 26) No development shall commence within each phase of the development before a Sustainability Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The Sustainability Statement shall include details of how the development within that phase will meet at least 10% of its energy demand from renewable or low carbon sources and the development shall be carried out in accordance with the approved statements.
- 27) Prior to the first occupation within each phase of the development, a Post-construction Verification Report demonstrating compliance with the measures set out in the approved Sustainability Statement relevant to that phase shall be submitted to and approved in writing by the Local Planning Authority.
- 28) No development shall commence within a phase until details of the external sound level emitted from plant/ machinery/ equipment and appropriate mitigation measures for that phase have been submitted to and approved in writing by the Local Planning Authority. The

measures shall ensure that the external sound level emitted from plant, machinery/ equipment will be lower than the lowest existing background sound level by at least 10dBA in order to prevent any adverse impact. The assessment shall be made in accordance with BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. A post installation noise assessment shall be carried out where required to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

- 29) No development shall commence at the site before a Noise Assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall include details of external noise levels and necessary mitigation, including boundary treatments such as noise barrier, bunding and landscaping to reduce the ingress of railway noise into the development site, and details of the sound insulation of the building envelope, orientation of habitable rooms away from railway noise sources and of acoustically attenuated mechanical ventilation as necessary to achieve internal room and external amenity noise standards in accordance with the criteria of BS8233:2014.
- 30) No development shall commence within a phase before a Site Investigation Scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon and target the risks identified in the approved preliminary risk assessment and shall make provisions for, where relevant, the sampling of soil, soil vapour, ground gas, surface and groundwater. All works must be carried out in compliance with and by a competent person who conforms to Land Contamination Risk Management (LCRM) or the current UK requirements for sampling and testing. The development shall be carried out in accordance with the approved scheme.
- 31) No development shall commence within a phase before a Quantitative Risk Assessment Report for that phase following site investigations undertaken in compliance with the approved site investigation scheme has been submitted to and approved in writing by the Local Planning Authority. The report shall: assess the degree and nature of any contamination identified on the site/within the phase through the site investigation; include a revised conceptual site model from the preliminary risk assessment based on the information gathered through the site investigation to confirm the existence of any remaining pollutant linkages and determine the risks posed by any contamination to human health, controlled waters and the wider environment. All works must be carried out in compliance with and by a competent person who conforms to Land Contamination Risk Management (LCRM) or the current UK requirements for sampling and testing.
- 32) No development shall commence within a phase before a Remediation Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. This statement shall detail

any required remediation works and shall be designed to mitigate any remaining risks identified in the approved quantitative risk assessment. All works must be carried out in compliance with and by a competent person who conforms to Land Contamination Risk Management (LCRM) or the current UK requirements for sampling and testing.

- 33) No development shall commence within a phase before the approved Remediation Method Statement for that phase has been carried out in full and a Verification Report confirming these works has been submitted to, and approved in writing, by the Local Planning Authority. This report shall include: details of the remediation works carried out; results of any verification sampling, testing or monitoring including the analysis of any imported soil; all waste management documentation showing the classification of waste, its treatment, movement and disposal; and the validation of gas membrane placement. If, during development, contamination not previously identified is found to be present at the site, the council is to be informed immediately and no further development (unless otherwise agreed in writing by the council) shall be carried out until a report indicating the nature of the contamination and how it is to be dealt with is submitted to, and agreed in writing by, the council. Any required remediation shall be detailed in an amendment to the remediation statement and verification of these works included in the verification report. All works must be carried out in compliance with and by a competent person who conforms to Land Contamination Risk Management (LCRM) or the current UK requirements for sampling and testing.
- 34) No development shall commence at the site before a Biodiversity Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement shall be informed by an up to date ecology appraisal and shall include the:
- a. purpose and objectives for the proposed works;
 - b. detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - c. extent and location of proposed works shown on appropriate scale maps and plans;
 - d. timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e. persons responsible for implementing the works;
 - f. initial aftercare and long-term maintenance);
 - g. disposal of any wastes arising from works.

The development shall be carried out in accordance with the approved Statement.

- 35) No development shall commence within a phase before a detailed surface water drainage scheme to manage surface water runoff from the development of that phase, via infiltration, for up to and including the 1 in 100 year event (+40%CC) has been submitted to and approved in writing by the Local Planning Authority.

The final detailed design shall be based on the FRA & Drainage Strategy (Ref: Hallam Land Management, Oct 2019, 1512-07/FRA/01 part 1 to 9) and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2018) and shall be completed as approved.

- 36) No dwelling shall be occupied within a phase before a Maintenance and Management Plan for the surface water drainage system, inclusive of any adoption arrangements and/or private ownership or responsibilities for that phase has been submitted to and approved in writing by the Local Planning Authority and the approved surface water drainage scheme has been correctly and fully installed as per the final approved details.
- 37) No development shall commence at the site before a Written Scheme of Archaeological Resource Management (SARM), has been submitted to and approved in writing by the Local Planning Authority.

The SARM shall include the following components:

- method statements for the investigation of all archaeological remains present at the site
- method statements for the preservation in situ any archaeological remains that cannot be investigated (if appropriate)
- a strategy for a programme of community engagement that includes the provision for at least one site open day
- an outline strategy for post-excavation assessment, analysis and publication including details of the timetable for each stage of the post-excavation works
- a timetable for all stages of the archaeological works and their relationship to the phases of construction

The development shall be implemented in full accordance with the approved SARM and this condition shall only be fully discharged when:

- all elements of the archaeological fieldwork, which shall be monitored and signed off by the Archaeological Advisors to the Local Planning Authority have been completed
- the programme of community engagement, which shall be monitored and signed off by the Archaeological Advisors to the Local Planning Authority has been completed
- a Post Excavation Assessment and an Updated Project Design has been submitted to and approved in writing by the Local Planning Authority. This shall be done within twelve months of the completion of the archaeological fieldwork (unless otherwise agreed in advance in writing by the Local Planning Authority)
- the post-excavation analysis as specified in the approved Updated Project Design; preparation of site archive ready for deposition at a store approved by the Local Planning Authority, the preparation of an archive report, and submission of a publication report have been completed. This shall be done

within three years of the conclusion of the archaeological fieldwork (unless otherwise agreed in advance in writing by the Local Planning Authority)

- 38) No development shall commence within a phase before a Lighting Design Scheme and Impact Assessment for that phase has been submitted to and approved in writing by the Local Planning Authority. The Scheme and Impact Assessment shall identify the measures that will be used to eliminate or minimise light impacts of the development on existing and proposed dwellings and the nearby railway line. The Scheme shall be prepared by a suitably qualified lighting engineer and shall include a timetable for the completion of the mitigation.
- The development shall be carried out in accordance with the approved Scheme and timetable and the approved mitigation measures shall be permanently retained thereafter.
- 39) No development shall commence within a phase before details of storm water design and construction details for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 40) As part of any future reserved matters submission, details of the housing types and tenures proposed shall be submitted to the Local Planning Authority for approval and shall accord with the most up evidence which demonstrates the development meets the housing need. The development shall be constructed in accordance with the approved details.
- 41) Prior to or alongside the first Reserved Matter application at the site, a Phasing Plan shall be submitted to the Local Authority for approval. The phasing plan shall identify the phases of construction of development that are to occur across the site, including the development parcels and infrastructure, including the number of dwellings to be delivered in each phase, the points of access, footpaths, cycleways and bridleways and open space and the sequence of the submission of reserved matter applications. The development shall be carried out in accordance with the provisions of the approved phasing plan and/or any subsequent amendment to it that has been agreed in writing by the local Planning Authority.
- 42) The development shall not be occupied until an updated Framework Travel Plan has been submitted to and approved in writing by the council. Such a Travel Plan to include details of:
- existing and proposed new transport links, to include connections serving pedestrian, cycle and public transport networks
 - Predicted travel to and from the site and expected modal split for these trips
 - Proposals and measures to minimise private car use and facilitate walking, cycling, shared use (shuttle buses, Liftshare, car clubs) and public transport

- Timetable for implementation of measures designed to promote sustainable travel choices
- Plans for monitoring and review against targets (the monitoring and review to be undertaken by the LPA), annually for a period of at least 5 years at which time the obligation will be reviewed by the planning authority
- the provision of cycle parking in accordance with council guidelines
- marketing and publicity for sustainable modes of transport to include site specific welcome packs.

Welcome packs to include;

- Walking, cycling, public transport and rights of way information. Site specific travel and transport information
- Site specific travel and transport information/ services (e.g. car clubs)
- Travel vouchers
- Details of relevant pedestrian, cycle and public transport routes to/ from and within the site
- Copies of relevant bus and rail timetables

No part of the development shall be occupied prior to implementation of those parts identified in the Travel Plan as capable of being implemented prior to occupation unless otherwise agreed between the parties in writing. Those parts of the approved Travel Plan that are identified as being capable of implementation after occupation shall be implemented in accordance with an agreed timetable and shall continue to be implemented as long as any part of the development is occupied.

End of Schedule

APPEARANCES FOR THE APPELLANT:

Mr Thomas Hill KC

Instructed by Mr Paul Belton

He called

Mr Julian Clarke

The Appellant's Highways Consultant

Mr Paul Belton

The Appellant's Planning Consultant

FOR THE COUNCIL:

Mr Brendon Brett

Barrister instructed by Mr Smith of
Central Bedfordshire Council

He called

Miss Emily Barnard

The Council's Planning Consultant

FOR BIGGLESWADE TOWN COUNCIL:

Mr Howard Leithhead

Barrister instructed by Mr Danks

He called

Mr Jack Thompson

The Town Council's Highways
Consultant

Mr Colin Danks

The Town Council's Planning
Consultant

Interested Parties

Mr Bond

Biggleswade History Society

Mr Cavender Handley

Local Resident

Mrs Russel

Local Resident

Mr Denchfield

Local Resident

Councillor Whitaker

Biggleswade Ward Councillor, Central
Bedfordshire Council

DOCUMENTS

- ID1 Opening Statement Appellant
- ID2 Opening Statement Central Bedfordshire Council
- ID3 Opening Statement Biggleswade Town Council
- ID4 Statement from Mrs Russel
- ID5 Statement from Mr Denchfield
- ID6 Statement from Mr Bond (Biggleswade History Society)
- ID7 Closing Statement Central Bedfordshire Council
- ID8 Closing Statement Biggleswade Town Council
- ID9 Closing Statement Appellant

Richborough



Costs Decision

Inquiry held on 13 - 16 August 2024

Site visit made on 14 August 2024

by **Mr M Brooker DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6/11/2024

Land North of Biggleswade, Biggleswade, SG18 0HB

Costs application in relation to Appeal Ref: APP/P0240/W/24/3340777

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Hallam Land Management for a full award of costs against Central Bedfordshire Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for up to 416 dwellings including affordable housing; green infrastructure accommodating landscaping, allotments, community orchard, public open space, children's playspace; new roads, car parking, cycleways and footways; associated infrastructure, including a sustainable drainage system; vehicular access to be secured from Furzenhall Road.
-

Decision

1. The application for an award of costs is refused.

The submissions for Hallam Land Management

2. The costs application was submitted in writing. The applicant refers to the principles identified in the costs section of the Planning Practice Guidance, specifically preventing or delaying development which should clearly be permitted; failing to produce evidence to substantiate each reason for refusal on appeal, vague, generalised or inaccurate assertions about a proposal's impact; and refusing planning permission on a planning ground capable of being dealt with by conditions.
3. The applicant says that the Council failed to provide any expert highways evidence to support their case, did not support its case with regards the use of a single point of access in an emergency and conceded that a Grampian style condition would resolve further issues referred to in the reasons for refusal.

The response by Central Bedfordshire Council

4. The response was made in writing. The council maintains that the technical highways assessment, (such as methodology, vehicle movements or impact on junctions) was not subject to challenge at the Inquiry and as such, the Council did not and did not need to lead highways evidence.
5. In addition, the Council asserts that in evidence it was accepted that a Grampian condition could be used to overcome elements of the reason for refusal only if the proposed "scheme were known and the effects of the scheme were known". Furthermore, additional evidence produced by the appellant in

the course of the appeal process, the parking survey and accident information, was not before the committee when it determined the application.

Reasons

6. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
7. I note that the Council, in response to additional evidence produced by the appellant in the appeal process, chose not to defend the reason for refusal with regards emergency access. To respond to new evidence produced in the appeal process is not unreasonable and I am satisfied that the Council made clear its intention not to defend the reason at the Inquiry in a timely manner.
8. Furthermore, in evidence, the Council acknowledged that a Grampian style condition could, with some qualification, overcome the reason for refusal with regards car parking and referred to the submission of additional evidence, specifically the parking survey, that was not before the Council when determining the application. I consider that the parking survey produced by the Appellant is a significant material consideration. Furthermore, the proposed parking mitigation measures are in draft form only rather than a refined and final scheme. As such that the Council acknowledged the potential for a Grampian style condition, while not agreeing that such a condition would resolve the dispute, in light of this additional evidence is not unreasonable.
9. I am satisfied that the Council adequately reasoned and substantiated its concerns regarding the reason for refusal in respect of the "use and enjoyment of Furzenahll Road, which is part of the National Cycle Network, for cyclists". In addition, I am satisfied that the Council did so adequately without presenting specialist highways evidence.
10. Matters relating to the determination of the application, in particular that many of issues at dispute could have been resolved earlier and that the determination of the application was over an extended period of time, is outside of the scope of this costs application.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr M Brooker

INSPECTOR