



Appeal Decision

Site visit made on 30 May 2025

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Appeal Ref: APP/P0240/W/25/3360168

Land South of Hockliffe Road, Leighton Buzzard, Bedfordshire LU7 9NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Thrive Homes against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/00817/FULL.
 - The development proposed is described as 'Residential redevelopment to provide 41 dwellings with associated access, parking and landscaping'.
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Decision

1. The appeal is allowed, and planning permission is granted for residential redevelopment to provide 41 dwellings with associated access, parking and landscaping at Land South of Hockliffe Road, Leighton Buzzard, Bedfordshire LU7 9NX, in accordance with the terms of the application, Ref: CB/23/00817/FULL, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. An application for an award of costs was made by Thrive Homes against Central Bedfordshire Council. This application is the subject of a separate Decision.
3. The Council's decision was issued on the 6 August 2024. The appeal was made on the 5 February 2025 and was valid on receipt. Due to internal procedures at the Planning Inspectorate the appeal start letter was sent out on the 28 March 2025. The submission date of the 5 February 2025 is that taken for the purposes of validation. The appeal was therefore made in time.
4. The Council submitted new evidence with its final comments¹, which is not generally permitted by the procedural guide². Ordinarily, this would have been returned to the Council without it being sent on to me. However, and in this instance, the Council's information was accepted and forwarded to the appellant for comment. I have taken these late submissions into account as well as the responses to questions I had relating to the suggested conditions.

Background and Main Issue

5. The Council refused the proposal for four reasons. Following the completion of a planning obligation pursuant to section 106 of the Town and Country Planning Act, the Council removed its objections³ articulated in the third and fourth reasons for refusal (these being the effect on infrastructure and the Chiltern Beechwoods).

¹ See Appendix A and B of the Council's final comments

² Paragraph 9.5.7 of the Procedural Guide: Planning Appeals

³ See Paragraphs 1.4 and 1.5 of the Council's final comments.

6. Upon reviewing the appellant's statement of case, the Council confirmed that it did not wish to defend its first and second reasons for refusal and is of the view that the appeal should be allowed. I have ultimately arrived at the same view as the Council and appellant, albeit for different reasons as set out below.

Reasons

Whether the proposal would result in the loss of a valued community facility

7. The appeal site currently encompasses a garden centre with ancillary café and other small retail premises (here in after referred to as the 'garden centre') that collectively form part of what is described on local signage as a 'retail park'. Policy R2 of the Central Bedfordshire Local Plan 2015-2035 (LP) seeks to protect retail uses in minor service centres and villages. The appeal site is in Leighton Linlade, which is a major service centre, and therefore the retail function of the site does not gain protection from Policy R2.
8. Notwithstanding this, Policy HQ3 seeks to protect community infrastructure. It states that permission will only be granted for a change of use or redevelopment (of community infrastructure) where the use no longer serves the community, the loss would be replaced by equivalent or better provision, or the use is no longer viable. 'Community infrastructure' is not allocated or otherwise identified on a plan within the LP. Nor is there a list of specific facilities that amount to community infrastructure. Instead, community infrastructure is defined in the LP as *the facilities and services that support and meet the local everyday needs of those who live or work in the locality*. Given this open definition there is an element of judgement in considering whether a service or facility is community infrastructure.
9. A useful starting point is a list at paragraph 17.3.2 of the LP indicating the broad types of facilities and services that can be considered community infrastructure. Garden centres and/or small retail parks are not specifically listed as one of the examples. However, exclusion from the list is not determinative as it is an open list of examples. The key point is whether the facility in question meets the 'everyday needs' of those in the 'locality'. Neither term is defined in the LP.
10. In general terms, the principal function of a garden centre in most instances is unlikely to be aimed at meeting everyday needs. This is because the stock on sale would not be geared towards everyday convenience retail and therefore customers would usually visit infrequently, perhaps a few times a year, to purchase plants and paraphernalia for their gardens. The catchment could also be quite wide and therefore aimed beyond those that live and work in the locality.
11. However, in this instance the garden centre sells more than plants and flowers. Indeed, it incorporates a retail area that sells greeting cards, gifts and other sundry items that fulfil some everyday local shopping needs. Significantly, there is also a café next to this retail area and the evidence before me suggests it is very popular and well used, especially by local older people and/or those with reduced mobility. Some of these patrons live in the nearby care home and enjoy viewing the plants and meeting friends at the café. The current premises therefore includes a retail area and café that has many of the characteristics of a facility that meets some everyday needs, including somewhere to socialise. The example list of community infrastructure in the LP refers to 'services for social use'.

12. This all needs to be considered in the context that the eastern side of the town has few facilities, as evidenced by the transport statement. Indeed, I have not been directed to any alternative nearby café or such like and there does not appear to be any comparable nearby focal point in the adjoining urban extension. Residents would need to travel into the town centre, which is around a mile away, to find similar facilities. The garden centre therefore seems to fortuitously function as an everyday facility in the absence of other provision on the eastern side of town.
13. Moreover, when judging whether a facility amounts to community infrastructure it is material to consider the views of the residents that make up the effected community. In this respect, there have been hundreds of objections to the proposal, including a petition, with a high percentage explaining that the garden centre acts as a local everyday amenity. It is also suggested that the garden centre facilitates regular active recreation in the form of gardening, and this supports physical and mental health. Moreover, interested parties submit that the garden centre is part of a hub with the children's nursery and care home and supports the sustainable growth of the town by providing a facility within walking distance of the recent urban extension. It is also the only garden centre in the town.
14. Therefore, although not formally listed as an Asset of Community Value, I nevertheless find that the garden centre, particularly the café and general retail area, can be regarded as community infrastructure as defined in the local plan because it supports and meets some local everyday needs. It is therefore subject to the provisions of Policy HQ3. This is a finding based on the specific circumstances of how the relevant garden centre operates and where it is and therefore sets no general precedent.
15. As evidenced by representations and my site visit, the garden centre still serves the local community and there is nothing to suggest it is not financially viable. The appeal scheme does not make provision to replace the retail or café space as the scheme is not for a mixed use. The town centre, whilst only a short bus journey away, does not provide the same level of local accessibility on account of distance, travel time and cost. As such, this factor would moderate the extent of the policy conflict rather than fully mitigate it.
16. In conclusion, the specifics of the case are such that the proposal would result in the loss of community infrastructure, and this is not justified or fully mitigated for when applying the criteria in Policy HQ3. The extent and impact of the loss is moderated by the presence of the town centre. Nevertheless, a conflict with Policy HQ3 would occur and this weighs against the appeal scheme.

Whether the proposal would provide adequate permeability and landscaping, achieve a biodiversity net gain and suitably design out crime

17. The appeal scheme as currently configured on the plans would involve the proposed houses being arranged in a cul-de-sac with a single access point from the A4012. The implication of this is that residents would need to head north and then loop round if they want to travel in a southerly direction towards local destinations such as an industrial estate, the housing focussed on Ramsey Drive and the Clipstone Park Playground and associated network of footpaths.
18. Policy M1 of the National Design Guide (NDG) explains that a well-designed and connected network gives people the maximum choice in how to make their journeys by all modes. Policy M2 of the NDG prioritises pedestrian and cycle

movements. The National Planning Policy Framework (the 'Framework') seeks to promote walking in the first instance and prioritises sustainable transport. Policy T2 of the LP is consistent with these aims as it promotes walking and cycling permeability and seeks to ensure that linkages and publicly accessible through-routes are created to successfully integrate the development into wider networks. As a result, there is a strong policy basis for securing permeable development.

19. In this instance there is a green corridor along the southern boundary of the site which incorporates an east west footway. The scheme originally includes a link off the proposed turning head through to this route⁴ in accordance with good practice in urban design. Such a link would provide a more direct desire line to the facilities outlined above, especially the nearby playground and enable a circular walk for residents of the appeal scheme that could take in a section of a green corridor. It would also ensure the appeal scheme functions as a connected section of townscape for existing residents to pass through. As such, there would be notable benefits from providing the link as originally proposed.
20. The link was removed from the scheme following the receipt of comments from Bedfordshire Police, who were concerned the link would make it easy for offenders to enter the development. That is, however, a generic comment that could apply to any development where a pedestrian link is proposed. Departing from good urban design practice would need clearer justification. In this respect the police have referred to crime statistics from March 2022 to February 2023. I am also aware that the garden centre has been subject to burglaries with the perpetrators apparently gaining access through an area of recently cleared landscaping where there is no natural surveillance. However, the figures provided by the Police are not comparative, so they do not demonstrate the area is a crime hotspot. Current crime levels from a single year could also be a short-term issue caused by factors unrelated to the built environment, whereas good urban design is important for the long-term functionality and attractiveness of the proposal. As such, I am not persuaded that the link would significantly increase the risk or fear of crime.
21. When discussing the link, the Police stated that the rear of Plot 29 would be 'extremely vulnerable', presumably to burglary. Nevertheless, the link would be some distance to the east and would not adjoin the rear garden of this property. Moreover, it would be short and overlooked by both the proposed housing and the existing properties to the south. Accordingly, it would not be sited or designed in a way that would increase the risks to the occupants of Plot 29. Instead, the link would be overlooked by the frontage of Plots 24-26. Thus, the scheme would not undermine the guidance in Paragraph 8.8 of Secure by Design quoted by the Police in their response.
22. Ultimately, the evidence before me does not demonstrate that the risk of providing the link would outweigh the benefits. I therefore share the concern articulated in the first reason for refusal that the scheme as currently presented lacks adequate permeability. Nevertheless, it would be possible, and in my view necessary, to impose a condition requiring the provision of the link as originally proposed.
23. In seeking the view of the appellant and Council⁵ regarding the imposition of such a condition, the appellant raised concerns that the link would be on to land in private ownership and is therefore nervous that a 'ransom' position could arise.

⁴ See superseded illustrative masterplan GUA-DR-L-004

⁵ The Council did not respond

Substantive evidence to this effect has not been provided though and I am mindful that they originally proposed the link. The appellant has suggested a link to the west of the site, but this would be sub optimal as it would not follow the southern desire line to the same extent and the comments from the Police would have more bearing given the lack of natural surveillance.

24. However, the appellants also stated that they are confident that the land to the south is to be transferred to the Council as part of a legal agreement. There is nothing to suggest the Council, as a reasonable public body, would seek to prevent an enhancing pedestrian link. Accordingly, there is a reasonable prospect that the link could be delivered and therefore a Grampian type condition⁶ securing a pedestrian link at the southern boundary would be reasonable.
25. As the Council has not offered any defence of its first reason for refusal it is unclear why it considered the landscaping to be 'restricted and unsatisfactory'. On the contrary, the landscaping flows through the site and includes hedging and trees in front gardens, street trees, a linear open space and other areas of planting. The boundaries would also be planted, and some existing landscaping would be retained, including that at the site entrance and along the southern boundary. Accordingly, sufficient landscaping would be provided to soften the development.
26. The evidence before me demonstrates that the proposal would achieve a biodiversity net gain (BNG) of around 79.2% in habitat units and 144.3% in hedgerow units. It is also material that the Council's Ecologist did not object to the proposal on receipt of further information. It is unclear what the Council's concerns are in respect of BNG and therefore I find in favour of the appellant on this point.
27. The Council has not articulated what its concerns are with regards to designing out crime as outlined in the first reason for refusal. However, it is assumed that this is a reference to some of the residual matters in the response from Bedfordshire Police. These include the perceived isolation of Plots 24-29 and a lack of natural surveillance. However, the Council has not pursued these points at appeal. They were right to do so as Plots 24-29 would form a coherent group of properties reasonably related to the development and all the public spaces would have passive natural surveillance. Properties would also have defensible space provided by delineated front gardens or boundary treatment. Conditions could be imposed to address access control to the flats, cycle storage and lighting.
28. For the reasons outlined above, and subject to the imposition of conditions, I find no conflict with Policies EE1, EE2, HQ1 and T2 of the LP, which seek to secure development that incorporates green infrastructure and biodiversity net gain, delivers high quality design and ensures sufficient permeability and safety.

Whether the proposal would amount to a loss of an employment generating use

29. The Council's second reason for refusal raises concerns relating to the loss of employment generating uses specifically referring to Policy EMP2 of the LP. Policy EMP2 is concerned with the change of use of employment uses, either allocated or unallocated, to non-employment generating uses. 'Employment uses' are defined in the supporting text to the policy as those falling within use classes E(g) or B. The current use of the appeal site does not fall into these use classes and therefore it does not amount to an employment use. Accordingly, the appeal scheme would

⁶ See Planning Practice Guide Paragraph: 009 Reference ID: 21a-009-20140306

not result in the loss of employment land within the meaning of the Local Plan and therefore Policy EMP2 is not relevant. For this reason, the Council has understandably not pursued this part of its second reason for refusal.

Other concerns of interested parties

30. Interested parties have raised concerns that existing jobs at the appeal site would be lost. It is unclear at this stage whether the existing businesses on site can relocate and thus safeguard the jobs. Assuming a worst-case scenario that this is not possible, the appellant has suggested that around 12 full time equivalent (FTE) jobs would be lost. This figure is based on Companies House data from 2023. The petition arranged by the effected businesses on site indicates that 40+ jobs could be lost, but it has not been confirmed whether these are FTE. This is a matter I will return to in my planning balance.
31. The evidence before me does not demonstrate that there is inadequate infrastructure to cater for the proposed houses. The Council and appellant agree that any identified shortfall can be addressed through the planning obligation.
32. The Local Highway Authority have considered the scheme, including the submitted Transport Statement, and are satisfied that the proposal would operate safely and not have a severe impact on the highway network. Indeed, the development would generate only one additional vehicle movement every three minutes on average across peak hours. I have no substantive reason to depart from this expert view. Moreover, when considering this matter, it is important to note that the development would utilise the existing highway access from the A4012, which is already in regular use and apparently operates safely when the high extent of daily usage is compared to accident data. It is unclear if the appeal scheme would support aspirations for a '15-minute town', but I have not been directed to any extant or emerging policy that requires this to be secured.
33. Closing the garden centre will likely result in existing patrons having to travel further afield to buy plants and garden items as well as some of the everyday objects sold. However, the provision of housing in a sustainable settlement could also result in fewer and shorter highway movements by future occupants. The evidence before me does not demonstrate that retaining the garden centre would be a more sustainable outcome than housing when considering carbon emissions from travel.
34. The site coverage and density of development would be similar to existing nearby estates and there would be ample landscaping. Parking would also be adequately catered for, and the overall design would be in keeping with recent development in the area. Due to proposed separation distances, plot orientation and the size of the properties, the living conditions of future occupants would be acceptable when considering privacy, outlook, light, bedroom sizes and access to gardens and open space. As such, the proposal would not be an overdevelopment of the site or harmful to the character and appearance of the area.
35. The Council's Ecologist has reviewed the wildlife surveys and biodiversity information submitted and has not raised any objections regarding the impact on protected species, including badgers, great crested newts and bats or the habitat at Linslade Wood. I afford this independent expert view significant weight. Concerns have been expressed about recent tree removal, but I understand that the trees in questions were not subject to a preservation order. The distance between the

proposed houses and Briggington Cottages would be sufficient to protect the living conditions of these residents.

36. There is nothing of substance before me to suggest the proposed housing would inhibit the ability of retained businesses to adequately function or that mitigation is required by the developer as the 'agent of change'. Similarly, I have seen nothing to suggest the proposal would offend any standards or guidance relating to the safeguarding of children which attend the neighbouring nursery.

Planning Conditions

37. Many of the impacts of the proposal can be addressed through the imposition of conditions as per the list provided by the Council and reviewed and agreed by the appellant. In addition to the standard commencement condition, it is necessary to impose a drawings condition to ensure certainty. For similar reasons, it is necessary to impose a phasing condition. The Custom and Self-Build (CSB) plots should not be subject to the drawings condition to allow for customisation, as per the planning obligation.
38. In the interests of safeguarding the character and appearance of the area it is necessary to require details of the CSB plots, to stipulate the external finishing materials of the other homes and secure boundary treatment. The latter is also necessary in the interests of privacy and security. For similar reasons it is necessary to secure an arboricultural method statement and tree protection plan and details of hard and soft landscaping. To ensure adequate permeability it is necessary to impose a condition requiring a pedestrian access to the south.
39. In the interests of highway safety, it is necessary to secure the provision and retention of visibility splays, details of internal roads and driveways, provision of the turning head, improvements to the junction with the A4012 and the surfacing of internal roads prior to occupation. The delivery of these parts of the development would also be addressed via the phasing condition.
40. To retain off road parking it is necessary to ensure the garages are retained for this purpose. To promote sustainable transport, it is necessary to secure cycle parking and electric vehicle charging points. To manage surface water and prevent flooding, it is necessary to secure a drainage strategy with a maintenance and management plan. To promote sustainable construction and adaptation to climate change, it is necessary to secure an Energy and Sustainability Statement.
41. To ensure adequate and safe amenity and living conditions it is necessary to secure details of bin storage, secure access to the flats, external lighting, a phase 2 land contamination assessment and remediation plan, fire hydrants, foul drainage and a noise assessment/mitigation strategy. To improve biodiversity, it is necessary to secure enhancement measures, biodiversity net gain and both a landscape and ecological management plan and a construction environmental management plan.

Planning Obligation

42. The submitted unilateral undertaking makes provision for the following:
43. *Bus stop contribution* – To encourage residents of the proposal to use public transport in accordance with Paragraph 109 of the Framework a contribution of

£19,500 is secured towards real time information screens at three bus stops near to the site alongside maintenance for three years.

44. *Infrastructure* – To mitigate for the impact the appeal scheme will place on local infrastructure and adhere to Policy HQ2 of the LP, contributions have been secured for the improvement and refurbishment of the Meadow Way Community Centre (£44,919), early years education (£39,467), primary education (£229,803), secondary education (£161,085), SEND (£47,283), health (£30,873), bins (£3,173), offsite leisure (£41,725) and offsite outdoor sport facilities (£10,453). The figures have been calculated using transparent methodologies and formula and are related to the impacts of the scheme as explained by relevant consultees.
45. The requirement for a financial contribution towards offsite leisure was queried by the appellant. This was because the contribution was originally meant to be used for upgrades towards the Tiddenfoot Leisure Centre, but this is no longer required as funds are in place. The Council is therefore instead seeking to use the contribution towards a new leisure centre. I consider this a reasonable approach because the residents of the appeal scheme will place pressure on leisure facilities and infrastructure, and this should be offset by the scheme.
46. *Affordable Housing* – There is an identifiable need to provide affordable housing in the area. To this end, Policy H4 of the LP seeks to secure 30% of homes as affordable housing. The planning obligation would secure 10 affordable rent and 3 shared ownership properties and thus adherence with Policy H4 would occur.
47. *Custom and Self Build Homes (CSB)* – To adhere to Policy H6 of the LP a minimum of 10% of the homes on site should be CSB. The planning obligation makes provision for five CSB plots to be delivered and therefore adherence to Policy H6 would occur.
48. *On site open space* – To adhere to Policy EE13 of the LP it is necessary for the proposal to provide public open space. This is secured though the planning obligation with the open space to be delivered before the occupation of 85% of the homes. The delivery of the open space would therefore be towards the end of the development but given the medium size of the proposal, the availability of other open spaces nearby that can be used by the early occupants of the scheme and because enough revenue would be in the final 15% of homes to incentivise completion, I am satisfied, on balance, that the trigger point is not too late.
49. *Monitoring fee* – Given the number of obligations it is reasonable for the Council to seek a monitoring fee. Two figures have been provided in the planning obligation. The Council is seeking a monitoring contribution based on a percentage of the overall sum secured whereas the appellant is proposing a contribution per action. I prefer the appellant's approach as it better relates to the monitoring actions necessary and has been supported by another Inspector⁷. A monitoring contribution of £46,508 is unnecessary whereas one of £16,500 is.
50. These obligations are necessary to prevent harm or meet the requirements of the development plan, are directly related to the proposal and are fair in scale and kind. I have therefore taken the obligations into account when having regard to Regulation 122 of the Community Infrastructure Levy Regulations and Paragraph 58 of the Framework.

⁷ APP/P0240/W/24/3343707

Other Considerations

51. For the reasons outlined above, the appeal scheme would be at odds with Policy HQ3 of the LP. The proposal would adhere to several other policies in the LP but Policy HQ3 is important in judging the acceptability of the scheme. As such, I find a conflict with the development plan taken as a whole. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
52. The Council suggests that it is currently able to demonstrate a five-year housing land supply of 5.05 years. However, that suggestion is at odds with the findings of several Inspectors⁸, with the most recent finding a supply of 4.83 or 4.93 years. The Council has provided rebuttals to the findings of the Inspectors. In summary, the Council is of the view that if Site HT057 is included in the supply then 5.05 years can be demonstrated. The appellant's final comments focus on Phase 4 of the above site and submits that 236 dwellings should be removed from the supply. On that basis, the Council's supply would dip to just under five years.
53. In respect of the above, the onus is on the Council to provide clear evidence that housing completions will begin on site at Phase 4 within the relevant five-year period. The Planning Practice Guide (PPG) provides guidance on what can amount to clear evidence. In this respect, the Council has not provided any of the information listed. In particular, there is nothing of substance before me to confirm that reserved matters have been submitted or are imminent. There is no planning performance agreement, and a house builder is yet to be appointed or sold the site. Substantive evidence relating to site assessment work has not been supplied. These are factors that led to the previous Inspector deducting 236 homes from the supply. There is a public interest in decision makers being consistent.
54. The list in the PPG is not closed so other evidence can be considered. In this respect, design codes have been approved as a pre-requisite for a reserved matters submission and the first 7 parcels of Phase 4 have been marketed with interest from 15 housebuilders. Serviced plots are also being prepared with the intention that the reserved matters run in parallel. These are all steps towards deliverability but, on balance, I do not consider them to amount to the necessary 'clear evidence', as there is still a degree of uncertainty as to timescales. The absence of a housebuilder is a particularly pertinent point because there will be a lack of clarity over the delivery timetable until they are on board. I therefore share the view of both the appellant and the previous Inspector that 236 dwellings should be removed from the supply. Accordingly, and from the evidence before me, I find that the Council cannot currently demonstrate a five-year housing land supply.
55. In such circumstances, Paragraph 11 of the National Planning Policy Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The appeal scheme would not offend any of the 'key policies' specifically identified as requiring 'particular regard'.

⁸ APP/P0240/W/24/3348840, APP/P0240/W/24/3350507 and APP/P0240/W/24/3347671

56. Nevertheless, the proposal would result in the loss of community infrastructure. Paragraph 98 of the Framework states decisions should guard against the unnecessary loss of valued facilities, particularly where this would reduce the community's ability to meet its day-to-day needs. The same paragraph also seeks to ensure established shops are retained for the benefit of the community. The proposal would be at odds with this national policy. Some of those effected would be elderly or less abled and therefore the equality⁹ implications add extra force to this matter. On a worst-case scenario, the proposal would also result in the loss of something in the region of 12-40 jobs.
57. That said, the extent of harm from the loss of community infrastructure would be notably moderated on account of some alternative community facilities, including shops and cafes, being available in the thriving¹⁰ town centre. Although this is not of equivalent accessibility to the garden centre due to the distance from nearby dwellings, including the adjacent care home, and thus contrary to Policy HQ3, the facilities in the town centre are nevertheless walkable for some as well as being a short and convenient bus journey away with bus stops located broadly outside the site. This should assist the older and less mobile local residents. This is not, for example, a situation where a remote rural community would lose its only shop. In addition, the appeal scheme would result in short term employment during construction and the spend of future occupants would support and perhaps create some additional employment. The harm collectively carries significant weight.
58. Against this, the appeal scheme would secure several important benefits. The proposal would deliver a moderate number of homes at a point in time when the Council are unable to demonstrate a five-year supply. Being a scheme promoted by a developer it is likely to be delivered reasonably quickly. The proposal would therefore help to significantly boost the supply of housing, which is a key aim of the Framework. It would also deliver affordable housing in an area of need. This is an important benefit in isolation as is the provision of housing in a sustainable location on previously developed land. A biodiversity net gain would also be achieved. The scheme could also contribute to the supply of custom and self-build homes, although I afford this moderate weight as the planning obligation provides an opt out if marketing is unsuccessful (and I have seen little evidence of the demand for CSB in this area). Nevertheless, these matters in combination carry weight of a high order in the prevailing circumstances.
59. Ultimately, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits of the scheme. Accordingly, the application of the 'tilted balance' in the Framework strongly indicates that the proposal should be determined otherwise than in accordance with the development plan.

Appropriate Assessment

60. The appeal site is located within the zone of influence of the Chiltern Beechwoods Special Area of Conservation (SAC). This habitat site is designated on account of its semi-natural dry grassland, beech forests and stag beetles, which are the qualifying features. The conservation objectives of the SAC can be summarised as

⁹ See in particular s149 of the Equality Act 2010 which seeks to advance equality of opportunity between those with a protected characteristic and those without

¹⁰ The Local Plan explains that the percentage of convenience floorspace in the town centre (24%) is above the national average (18%), while vacancy rates are significantly below the national average.

ensuring its integrity, by maintaining or restoring the habitats and populations of the qualifying features.

61. There is no dispute that population growth resulting from new housing within this zone would likely result in an increase in harmful recreational disturbance at the habitat site. Accordingly, the proposal in combination with other plans and projects would be likely to have a significant adverse effect when following a precautionary approach. Hence, an appropriate assessment, in accordance with the Habitat Regulations¹¹, is required to consider the implications of the proposal on the habitat site in view of the conservation objectives.
62. Again, there is no dispute between the Council and appellant that the scheme needs to provide mitigation to address the impact on the habitat site given the pathway of effect. The mitigation would be a financial contribution pooled with others to use towards strategic measures aimed at access management and monitoring and the provision of alternative suitable accessible natural greenspace. In effect, visitors at the SAC would be managed but also provided with alternatives so that they do not need to visit. This is all set out in a mitigation strategy prepared by the Council which also includes the mechanism for calculating the level of mitigation on a 'per dwelling' basis. The appellant has confirmed a willingness to provide a financial contribution in line with the methodology in the mitigation strategy, which is a document and approach supported by Natural England as the Statutory Nature Conservation Body. I afford this expert independent view significant weight.
63. The contribution would be secured through the submitted planning obligation and would be directly related to the impacts of the proposal on the habitat site. It is necessary to make the development acceptable and the contribution would be fairly and reasonably related in scale and kind to the development because it follows the methodology in the Council's mitigation strategy.
64. As a unilateral undertaking the planning obligation does not include any requirement that the Council spend the contribution in the way envisaged. However, there is no reason to doubt that the Council, as a responsible public body, will spend the money in the way it is intended. There are also published mechanisms in place to ensure the money is diverted to the strategic mitigation project. Thus, the contribution is an obligation that can be taken into account. As a result, the proposal would not adversely affect the integrity of the European sites, the conditions of which need not deteriorate because of the proposal. The appeal scheme would therefore adhere to Policy EE3 of the LP as well as the Framework and the Habitat Regulations.

Conclusion

65. The proposed development would not adhere to the development plan but material considerations, namely the Framework, indicate that the appeal should be determined other than in accordance with the development plan. Accordingly, the appeal has succeeded.

Graham Chamberlain
INSPECTOR

¹¹ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this permission.
2. Subject to Conditions 4 below, the development hereby permitted shall not be carried out except in complete accordance with the following approved plans:
 - 23-001 Site Location Plan
 - 23-002 Rev. I Proposed Site Layout
 - 23-003 Proposed Floor Plans and Elevation Plots 1 and 2
 - 23-004 Rev. C Proposed Floor Plans and Elevations
 - 23-005 Proposed Floor Plans and Elevations Plots 5, 7, 24-26, 27-29
 - 23-006 Rev. A Proposed Floor Plans and Elevations Plots 8-9, 14-16, 18-19, 22-23
 - 23-007 Rev. D Proposed Floor Plans and elevations Plots 16-17
 - 23-008 Rev. A Proposed Floor Plans and Elevations (Plots 34-41)
 - 23-009 Rev. A Proposed Floor Plan and Elevations (Garages)
 - 23-012 Rev. D Proposed Materials Plan
 - 23-013 Rev. E Proposed Boundary Treatment Plan
 - 23-014 Rev. D Proposed Building Heights Plan
 - 23-015 Rev. D Proposed Housing Mix Plan
 - 23-016 Rev. E Proposed Parking Strategy Plan
 - 23-017 Rev. E Proposed Refuse Strategy Plan
 - 23-018 Rev. D Proposed Open Space Plan
 - 23-019 Garden Centre (as existing plans and elevations)
 - 23-020 Rev. D Proposed Garden Sizes
 - 23-021 Rev. B Proposed Refuse and Cycle Stores
 - 23-022 Proposed Density Study
 - 3-023 Rev. A Proposed Floor Plans Plot 5-7 (Custom Build Options)
 - 23-024 Rev. A Proposed Floor Plans Plots 3-4 (Custom Build Options)
 - GUA-DR-L-001 Rev. P04 Outline Hard and Soft Landscaping Proposals Part 1
 - GUA-DR-L-002 Rev. P05 Outline Hard and Soft Landscaping Proposals Part 2
 - GUA-DR-L-004 Rev. P04 Illustrative Landscape Masterplan
 - GUA-DR-L-003 P01 Outline Soft Landscaping Schedule
3. Subject to Condition 4 below, the development shall be carried out in accordance with the material finish as detailed on dwg no. 23-010 (Proposed Mood Board) and 23-012 Rev. C (Proposed Materials Plan), unless otherwise agreed in writing by the Local Planning Authority.
4. Notwithstanding the approved plans and the requirements of Condition 3, details of the external appearance, material finishes and internal layout of the custom and self-build properties shall be submitted to and approved in writing by the local planning authority prior to the commencement of development on any of those plots or such other timetable as may be approved in writing by the local planning authority. The custom and self-build properties shall be implemented in accordance with the approved details.
5. The proposed boundary treatment shall be implemented in accordance with dwg. no. 23-013 Rev. E (Proposed Boundary Treatment Plan) prior to occupation of the

relevant residential units and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

6. Visibility splays shall be provided at all private means of access from individual properties within the site onto the estate roads. This vision splay shall be provided on each side of the access drive and shall be 2.8m measured along the back edge of the new highway from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the footway into the site along the centre line of the anticipated vehicle path. The vision splays so described and on land under the dwelling occupier's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.
7. Development shall not begin until details of the improvements to the junction between the existing access road and the A4012 have been approved in writing by the Local Planning Authority and no building shall be occupied until that junction has been constructed in accordance with the approved details.
8. Before any access between plots 1 and 2 (as shown on dwg no. 23-002 Rev. I) and the existing access road is brought into use, a triangular vision splay shall be provided on each side of the new access drive and shall be 2.8m measured along the back edge of the highway from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the footway into the site along the centre line of the anticipated vehicle path. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.
9. Visibility splays shall be provided at all road junctions within the site. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the side road from its junction with the channel to the through road and 17m measured from the centre line of the side road along the channel of the through road. The vision splays required shall be provided and defined on the site by or on behalf of the developers and be entirely free of any obstruction.
10. Development shall not begin until the detailed plans and sections of the proposed estate road, including gradients, surfacing and method of surface water disposal, as well as a phasing timetable for construction, have been submitted to and approved in writing by the Local Planning Authority. The road shall thereafter be constructed in accordance with the submitted details
11. Development shall not begin until the details of the improvements to the existing access road (and footway) from the A4012 to the proposed estate road have been submitted to and approved in writing by the Local Planning Authority. Such improvement shall include plans and sections of the road, including gradients, surfacing and method of surface water disposal and no building shall be occupied until the section of road which provides access has been constructed (apart from final surfacing) in accordance with the approved details.
12. The maximum gradient of all vehicular accesses onto the estate roads shall be 10% (1 in 10).

13. Before any dwelling is occupied all on site vehicular areas (associated with that dwelling, including access) shall be surfaced in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
14. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose, other than as garage accommodation, unless permission has been granted by the Local Planning Authority on an application made for that purpose.
15. The driveway length in front of the garages shall be at least 6.0m as measured from the garage doors to the highway boundary
16. No development shall commence, other than enabling works of any phase, until a detailed Phasing Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details (unless superseded by a subsequent plan approved in writing by the Local Planning Authority). The plan shall include the phasing of open space, roads and associated turning heads as shown on the approved plans.
17. Before development begins, a scheme for the parking of cycles on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.
18. Details of bin storage/collection points shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The development shall be implemented in accordance with the approved details.
19. No development shall take place until an Ecological Enhancement Strategy (EES) for the creation of new wildlife features such as hibernacula, the inclusion of integrated bird/bat and bee boxes in buildings/structures, hedgehog holes in fences and tree, hedgerow, shrub and wildflower planting/establishment has been submitted to and approved in writing by the local planning authority. The content shall be informed by the 2023 Ecological Appraisal (EA) supporting the application and 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) details of initial aftercare and long-term maintenance.The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter

20. A landscape and ecological management plan (LEMP) shall be submitted to and be approved in writing by the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following.
- 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 five-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.
- The LEMP shall also include 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. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development shall be implemented and occupied in accordance with the approved LEMP.
21. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be informed by the 2023 Ecological Appraisal (EA) supporting the application and include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of “biodiversity protection zones”.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
22. Prior to commencement of the development, a noise assessment shall be submitted to and approved in writing by the local planning authority. The assessment shall consider external noise levels, details of the sound insulation of the building envelope, acoustically attenuated mechanical ventilation, and noise barriers as necessary to achieve internal room and external amenity noise standards in accordance with the criteria of BS8233:2014. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

23. No development approved by this permission shall take place until a further Phase 2 investigation report, as recommended by the previously submitted Earth Environmental & Geo-technical (Southern) Ltd report dated November (Ref:R0625/21), has been submitted to and approved in writing by the Local Planning Authority. Where found to be necessary by the phase 2 report a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action.
24. Prior to any permitted dwelling being occupied a validation report shall be submitted and approved in writing by the Local Planning Authority to demonstrate the effectiveness of any agreed Remediation Strategy. Any such validation shall include responses to any unexpected contamination discovered during works.
25. Prior to the construction of vehicular parking areas associated with the approved dwellings, a scheme for the charging of electric and ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall accord with Policy T5 of the CBLP and shall include the following:
- Details of active charging posts or passive provision such as cabling and electricity supply for each dwelling;
 - Timescales/triggers for implementation of the scheme.
- The development shall be completed in accordance with these approved details including the agreed timescale/triggers.
26. No development shall commence until a detailed surface water drainage scheme showing all connections, to manage surface water runoff from the development for up to and including the 1 in 100 year event (+40%CC), via attenuated discharge to an existing watercourse, and a maintenance and management plan for the scheme has been submitted to and approved in writing by the Local Planning Authority. The final detailed design shall be based on the agreed FRA (Ref: Rappor, 21-0629, Jan 2023) and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2018) and shall be implemented and maintained as approved. Maintenance will ensure the system functions as designed for the lifetime of the development. Any variation to the connections and controls indicated on the approved drawing which may be necessary at the time of construction would require the resubmission of those details to the Local Planning Authority for approval. The discharge rate from the development will be limited to the equivalent 1 in 1 year rate, or an appropriate rate as agreed by the Bedford Group of Internal Drainage Boards.
27. No building/dwelling shall be occupied until the developer has formally submitted in writing to the Local Planning Authority a finalised 'Maintenance and Management Plan' for the entire surface water drainage system, inclusive of any adoption arrangements and/or private ownership or responsibilities, and that the approved surface water drainage scheme has been correctly and fully installed as per the final approved details.

28. Prior to the construction of above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.
29. Notwithstanding the submitted details, the Energy and Sustainability Statement shall be updated prior to commencement of development to accord with the requirements of Part L of the Building Regulations (dated 2021) and submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to occupation in accordance with the approved details.
30. Prior to occupation of any dwelling hereby permitted, a Verification Survey shall be submitted to and approved in writing by the Local Planning Authority, which conforms with the measures to address climate change and sustainability have been implemented in full.
31. Prior to occupation of the flats within the development, a scheme detailing the provision of a secure access system shall be submitted to and approved in writing by the Local Planning Authority. The approved secure access system shall be implemented prior to occupation and thereafter retained.
32. Prior to occupation of the development, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The details shall include, but not limited to the following:
 - a) Technical description, design or specification of external lighting to be installed;
 - b) A drawing showing the location and height of the lighting fixings;
 - c) An overlay of the lighting onto the landscaping plans to ensure no conflict;
 - d) Methods to control lighting (eg. timer operation).Only external lighting in accordance with the specifications and locations set out in the approved details shall be installed. These shall be maintained thereafter in accordance with the approved details.
33. Prior to the commencement of development, a detailed Arboricultural Method Statement and Tree Protection Plan shall be submitted to the Local Planning Authority for approval, based on the findings of the Arboricultural Implications Assessment dated 3rd February 2023, as prepared by Andrew Belson Arboricultural Consultants. The approval and finalised Arboricultural Method Statement and Tree Protection Plan shall then be implemented in strict accordance with the approved sequence of operations, with all tree protection barriers remaining securely in position throughout the course of the development.
34. Notwithstanding the details shown on drawings GUA-DR-L-001 Rev. P04 Outline Hard and Soft Landscaping Proposals, GUA-DR-L-002 Rev. P05 Outline Hard and Soft Landscaping Proposals - Part 2, and GUA-DR-L003 Rev. P01 Outline Soft Landscaping Schedule, the tree planting shall be updated to show the provision of extra heavy standard trees throughout the development, along with an updated landscape management scheme. The updated scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of above ground works. The scheme as amended shall be implemented by the end of the full planting season immediately following

completion and/or first occupation of the site (a full planting season shall mean the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape management scheme and any which die or are destroyed during this period shall be replaced during the next planting season.

35. Prior to occupation of the development a scheme for the provision of fire hydrants at the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the dwelling the fire hydrants serving the development shall be installed as approved. Thereafter the fire hydrant shall be retained as approved in perpetuity.
36. The development shall be carried out in accordance with the Biodiversity Net Gain Plan and Metric provided by Cherryfield Ecology (01/03/2023). Prior to the completion of the development, a verification report, setting out how compliance with the Cherryfield Ecology Report and Metric has been achieved, shall be submitted to, and approved in writing by the Local Planning Authority.
37. The development shall not be occupied until details of a pedestrian link at the southern boundary of the appeal site have been submitted to and approved in writing by the local planning authority. The pedestrian link shall be implemented prior to the occupation of any dwelling in accordance with the approved details.

End of schedule



Costs Decision

Site visit made on 30 May 2025

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Costs application in relation to Appeal Ref: APP/P0240/W/25/3360168

Land South of Hockliffe Road, Leighton Buzzard, Bedfordshire LU7 9NX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Thrive Homes for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for 'Residential redevelopment to provide 41 dwellings with associated access, parking and landscaping'.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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.
3. The PPG also explains that a Local Planning Authority is at risk of an award of costs if it withdraws a reason(s) for refusal, fails to produce evidence to substantiate each reason for refusal or refuses permission on a ground capable of being dealt with by a condition.
4. The Council refused the application for four reasons. This decision was made by the planning committee against the recommendation of Officers as the Council is entitled to do. Indeed, there would be little point in having planning committees if they are unable to go against an Officer's recommendation. Nevertheless, following the submission of an appeal by the applicant, the Council reviewed its position with a consultant. Comments from the consultant have not been provided but I understand the advice given was that the reasons for refusal should not be defended. The Council accepted this advice and did not seek to defend its first two reasons for refusal. In effect, the Council both withdrew the reasons for refusal and failed to substantiate them. This is clearly unreasonable behaviour that has put the applicant to the unnecessary expense of addressing them as part of their appeal.
5. The Council maintained its position in respect of the third and fourth reasons for refusal, which related to the absence of a planning obligation. That said, the third and fourth reasons were only imposed because the fundamental concerns raised under the first two reasons for refusal meant further negotiations on the planning obligation would not yield an acceptable scheme. In other words, had the Council not pursued its concerns articulated in the first and second reasons for refusal,

negotiations would have progressed with the planning obligation and permission would have been very likely granted.

6. I say 'very likely' granted because Officers had recommended approval subject to completing the planning obligation. The appellant did not (and has not) outright objected to the heads of terms the Council sought following clarification regarding the necessity of some of them. The main residual area of disagreement was the monitoring fee, but this would probably have been resolved as it was the amount rather than the principle that was in dispute. Ultimately, the Council has not raised significant objections to the content of the submitted unilateral undertaking.
7. Consequently, the concerns raised in the first and second reasons for refusal are key. Had they not been raised then the proposal would have very likely been approved by the Council. I therefore consider a full award of costs is justified. In coming to this view, I note that the Council gave a clear indication in writing on the 9 April 2025 that it was not going to defend the appeal. This was a pragmatic concession that would have reduced the applicant's costs. However, the appeal had been submitted on the 5 February 2025 with a statement of case. Therefore, the appellant was put to unnecessary expense of preparing this and the other appeal submissions. Furthermore, additional expense was incurred attending the site visit, providing comments on the five-year housing land supply and addressing the concerns of interested parties and my questions.
8. I did not find in favour of the appellant in respect of the impact on community infrastructure or permeability. Both were points raised in the first and second reasons for refusal. However, my concerns relating to permeability can be addressed through the imposition of a condition and the case in respect of community infrastructure was made by interested parties not the Council. As such, this does not alter my position that the Council's decision not to defend its decision when an appeal was submitted was unreasonable.
9. Consequently, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Central Bedfordshire Council shall pay to Thrive Homes, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Central Bedfordshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Graham Chamberlain
INSPECTOR