



Appeal Decision

Hearing held on 28 April 2026

Site visit made on 29 April 2026

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2026

Appeal Ref: APP/K0235/W/25/3376539

Land to the East of Duck End Lane, Wilstead

Grid Reference Easting: 506245, Grid Reference Northing: 244034

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Kler Group Limited against Bedford Borough Council.
 - The application reference is 24/01566/MAO.
 - The development proposed is: Outline application with all matters reserved, except access, for the erection of up to 149 dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for outline application with all matters reserved, except access, for the erection of up to 149 dwellings and associated works at Land to the East of Duck End Lane, Wilstead (Grid Reference Easting: 506245, Grid Reference Northing: 244034) in accordance with the terms of the application, reference 24/01566/MAO, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application sought outline permission, with all matters reserved except for access. Appearance, landscaping, layout, and scale are reserved matters to be considered through future applications.
3. In addition to the approved plans listed in condition 1, a 'Parameter Plan' is provided which shows the areas for development and the areas for public open space and countryside edge buffers, as well as the maximum heights of buildings. It is proposed that a condition would require reserved matters applications to come forward in accordance with the details shown on the Parameter Plan and I have considered the appeal on this basis. However, because layout is a reserved matter, I have treated the layout details shown on the Parameter Plan as illustrative rather than fixed. For the avoidance of doubt, I have also considered the Indicative Masterplan to be illustrative only.
4. Although the planning application was considered by the Council's Planning Committee, the appeal was submitted before the Council had issued its formal decision. Therefore, the appeal is made on the basis that the Council failed to determine the planning application within the prescribed time period. I have considered the Council's putative reason for refusal in identifying the main issue.

5. The putative reason for refusal refers to the space between Wilstead and Wixhams as a “strategic gap”, which is the terminology used in the Wilshamstead Neighbourhood Plan (WNP). At the hearing, the parties agreed that the “strategic gap” has the same meaning as the “local gap” referenced in Policy AD42 of the Allocations and Designations Local Plan (July 2013) (ADLP) which is the only adopted development plan policy relating to the gap between the settlements. I have referred to the gap throughout this decision as a “local gap” to reflect the wording in Policy AD42. However, I have also had regard to the objectives of the WNP and the associated commentary and mapping information relating to “strategic gaps”, including at Appendix A of the WNP.
6. A draft S106 agreement was discussed at the hearing, and a completed and executed version of the agreement was provided shortly after the event. A revised agreed schedule of conditions was also provided after the hearing, which sought to address issues raised during the discussions at the event. I shall set out my approach to the planning obligation and the conditions later in this decision.

Main Issue

7. The main issue is the effect of the proposal on the local gap designation and on the character and appearance of the area.

Reasons

Background and context

8. The appeal site comprises an arable field, located between Cawne Close on the edge of Wilstead and Duck End Lane. Bedford Road borders the site to the southwest, beyond which there are fields and then the A6 road which heads north to Bedford. The village extends roughly southwards and eastwards from Cawne Close, whilst land to the northeast and east of the site comprises mainly fields interspersed with hedgerows and pockets of woodland. This large-scale landscape with expansive views is characteristic of the East Marston Clay Vales¹ that surround Wilstead and forms a key part of its rural setting.
9. There are a few dwellings and some commercial buildings on Duck End Lane. Together with the short ribbon of homes nearby on Bedford Road, the dwellings near to the Duck End Lane junction form an area known as “Duck End”. Duck End is separated from the A6 and its roundabout junction with Bedford Road by fields.
10. Appendix A of the WNP explains the role of the appeal site in maintaining the traditional form of the village by separating the heart of Wilstead from Duck End, which, as an “End” cluster of dwellings was once a separate hamlet. The farmland character of the appeal site contributes further to the rural identity of Wilstead; and the absence of buildings within the site allows for long-reaching views from the village across the wider landscape towards the historic Cardington Hangers, which is identified as a key view in the text of the WNP. The site, therefore, makes a valuable contribution to the historic, rural character and the identity of Wilstead.
11. The plan appended to the Council’s Landscape Appeal Statement shows that Wixhams, a new settlement of up to 4500 dwellings with a town centre and community facilities, will occupy a large area of land on the other side of the A6, extending westwards to the railway line. At the time of my site visit, the planned

¹ As described in the Bedford Borough Landscape Character Assessment (May 2014, Updated October 2020)

area of Wixams that lies closest to the A6, and therefore to Wilstead, was at an advanced stage of construction.

12. At the hearing, the parties agreed that the extract from the Local Plan 2030 (BBLP) and the ADLP Policies Map as it is shown in the Council's Statement of Case should be relied upon to identify the Local Gap between Wilstead and Wixams as it is designated in the ADLP. The parties agree that the gap, measured along a straight line roughly from Cawne Close, through the appeal site, to the A6 south of the roundabout is 725m. This aligns with the accompanying text to Policy AD42 of the ADLP, which refers to the gap as "less than 800m".
13. Appendix A of the WNP seeks to provide further definition as to the parcels that make up the protected gap between the two settlements. These parcels include most, albeit not all, of the undeveloped land between the A6 road and Wilstead to the west and northwest of the village. Parcels "SG2", "SG3" and "SG4" encompass land between Bedford Road and the A6 road; whereas parcels "SG1" and the appeal site (parcel "SG5") are located to the north of Bedford Road and encapsulate land between Duck End Lane and the A6 and between Wilstead and Duck End Lane, respectively.
14. Policy AD42 of the ADLP states that development will not be permitted in a local gap which, because of the nature of the proposal:
 - i. diminishes the gap physically or visually; or
 - ii. changes its character adversely; or
 - iii. compromises the integrity of the gap, either individually or cumulatively with other existing or proposed development; or
 - iv. harms the character, setting or identity of any settlements separated by the gap.
15. The accompanying text to Policy AD42 explains that the objectives of the policy are to prevent the coalescence of settlements, to maintain the predominantly open and undeveloped character of the gap, and to protect the separate character and identity of settlements including their setting.

Effects of the proposal

16. The development would elongate the built-up area of Wilstead in a north-westerly direction, bringing it closer to the boundary of Wixams. Thus, the size of the gap between the two settlements would be physically diminished.
17. Moreover, the depletion of the wide, undeveloped space between Wilstead and Duck End would alter the visual and perceptual experience of the Local Gap when moving along Bedford Road in either direction. The change would be particularly noticeable when approaching Wilstead from Wixams, where the development would come into view when passing the Duck End properties on Bedford Road. Moving in the opposite direction, the experience of being within a built-up area would be extended until a point near to Duck End Lane. This is because the buildings and infrastructure associated with up to 149 dwellings would, in all reasonable likelihood, be of a scale and density that would be apparent through the site access and in views over and through the roadside landscaping.

18. It follows that the sense of arriving at or departing from Wilstead would occur at a point that is much closer to Wixhams than is currently the case. There would, therefore, be some depletion of the Local Gap in visual and perceptual terms.
19. That said, there would still be a broad area of undeveloped space between the new built-up edge of Wilstead and the A6, with Wixams further beyond that. Indeed, the width and verdancy of the other undeveloped spaces beside this part of Bedford Road, notably those within parcels SG1, SG2, SG3, and SG4, would ensure the preservation of a clear gap between Wilstead and Wixhams, which would be experienced when moving between the A6 underpass and Wilstead on foot or by bicycle, or when travelling in a vehicle between Wilstead and the A6 roundabout. The curvature of Bedford Road would further assist in safeguarding the Local Gap, because it would impede intervisibility between the development and the area near to the A6 underpass.
20. Views of the development from the Public Right of Way (PRoW) 3 to the south of Vicarage Farm would be limited due to the presence of intervening buildings, trees, and hedgerows. Furthermore, the footpath here crosses a series of fields and the A6 road and, given the distance between the nearest properties on Bedford Road and those in Wixams, the footpath has the character of a countryside walk between two settlements. This character would not be altered by the proposal due to its siting on the other side of Bedford Road, and the sense of separation between Wilstead and Wixams from PRoW 3 would be retained.
21. Due to the intervening fields and hedgerows, the development would have a discrete presence in long-distance views from the footpath network to the north-east of the site, such that there would be no harm caused to the character of the landscape beyond the local level. It would have greater prominence in shorter distance views, specifically from PRoW 13 beyond the end of Duck End Lane. The built form of Wixams is also apparent from this vantage point. However, so too is the undeveloped landscape between and around the settlements that would be unaffected by the proposal. Consequently, there would be no sense from PRoW 13 of Wilstead and Wixams coming together as one entity even though the development would be visible within the landscape.
22. Even though landscaping is proposed, the erection of up to 149 homes with associated infrastructure would harmfully urbanise the appeal site and there would be some loss of visual connectivity between the nearest parts of the village and the wider landscape. Moreover, whilst the proposed open space would ensure the retention of a gap between the new development and Duck End, the existing space would be significantly reduced, and it would be particularly narrowed where the rear boundary of Dove Cottage cuts into the appeal site field. Consequently, the sense of Wilstead and Duck End as historically discrete entities would be less pronounced than is currently the case. Overall, the proposal would have a localised yet eroding effect on the rural character and historic identity of Wilstead.
23. The proposed layout of the development is not before me at this outline stage. However, the developable area shown on the Parameter Plan would allow for the built form to extend further beyond the northern edge of Wilstead than the proposed layout for 95 homes on land north of Cotton End Road². However, whilst much of the development in the village fronts the through routes of Bedford Road,

²Granted under outline planning permission number 24/02231/MAO

Luton Road, and Cotton End Road, this is not universally the case. I observed some parts of the village that extend deeply from these main routes, including the area around Whitworth Way. Therefore, I see no reason why a detailed layout could not come forward in a manner that responds positively to the layout of existing dwellings in the village.

24. Overall, whilst the Local Gap would retain integrity so that the proposal would not cause the coalescence of Wilstead and Wixhams, it would be diminished physically and visually and there would be adverse changes to its character. Moreover, the encroachment of the site into the countryside setting of Wilstead and the erosion of the separation space between Wilstead and Duck End would cause harm to the character, setting, and identity of Wilstead. It follows that there would be unequivocal conflict with Policy AD42 of the ADLP. The proposal would also run counter to the aims and objectives of the WNP, insofar as it seeks to retain and enhance the setting, character, and identity of Wilstead and to maintain the separation between Wilstead and Duck End.

Other Considerations

Spatial strategy

25. The spatial strategy for the Borough set out in Policy 3S of the BBLP seeks to direct development towards larger settlements, with limited development in designated key service centres, which include Wilstead. The site, however, lies outside of the settlement boundary of Wilstead and is therefore in the countryside for planning policy purposes. Policy 7S of the BBLP sets out the circumstances in which development outside of defined settlement boundaries will be permitted, none of which apply to the proposal. Consequently, there would be conflict with the provisions for development in the countryside set out in Policy 7S of the BBLP.

Heritage assets

26. There are several listed buildings in the vicinity of the appeal site, including the Grade II listed buildings known as Dove Cottage³, Duck End Farm House⁴, and Duck End Barn⁵. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving listed buildings, their settings, and any features of special architectural or historic interest which they possess.
27. Dove Cottage is a timber-framed building with painted roughcast walls and a timber shingle roof, which could once have been thatched. The list entry suggests that the building dates from the 17th Century although, from the information before me, it did not appear in mapping evidence until later. It is thought that the cottage was once subdivided into two agricultural worker's dwellings before it was extended and amalgamated into a single property. The building has special architectural and historic interest due, in part, to its age, plan form, and its vernacular construction which reveal information about rural life and construction methods from the period in which it originated.
28. According to the list entry and the evidence, Duck End Farm House originates from the 18th Century and was extended in the 19th Century. The large size and

³ List entry number 1114204

⁴ List entry number 1321586

⁵ List entry number 1114203

brick construction of the farmhouse provide evidence of its evolution through a profitable period in farming, and past architectural trends. Along with its age, these features of the building contribute to its special architectural and historic interest.

29. Duck End Barn, which is thought to date from circa 1800, has special interest as a former threshing barn and its age and surviving historic fabric provide evidence of historic farming practices and construction techniques. The farmhouse and barn are closely related as part of a former farmstead such that they have group value, which contributes further to their significance.
30. It is common ground that the listed buildings on Duck End Lane also gain significance from their settings; and I agree. The surrounding fields and the narrow, tree-lined nature of Duck End Lane provide important visual and experiential indications of the agricultural history of the buildings and the area. Moreover, the physical relationship between the buildings, and their separation from the core of Wilstead enables them to be experienced as an 'end' settlement, reflective of the historic settlement pattern in this area. The undeveloped nature of the appeal site contributes to this sense of separation, and it also offers a visual and spatial connection between these buildings and the wider rural landscape. Consequently, the site is an element of the setting of each of these buildings that contributes to their overall significance and special interest.
31. The proposed development would have a close, physical relationship with the built-up edge of Wilstead, such that its effects on the wider rural landscape would be limited. Furthermore, there would be no direct change to the country lane character of Duck End Lane, from where the listed buildings would continue to be appreciated within their rural surrounds. The development would also retain some separation between Wilstead and Duck End through the proposed open space.
32. However, the development would nonetheless bring built form much closer to the listed buildings than is currently the case and, according to the Council, it could come to within 40m of the rear boundary of Duck End Cottage. The proposal would, therefore, have an urbanising effect within proximity to the listed buildings, thus it would fail to preserve the rural character of their immediate settings.
33. It is common ground that, through this development within their settings, there would be harm caused to the significance of Dove Cottage, Duck End Farmhouse, and Duck End Barn, and I concur with this conclusion. Owing to the scale and nature of the setting effects, the harm to the significance of each of these listed buildings would be less than substantial. The Framework requires this harm to be weighed against the public benefits of the proposal, and this is a matter that I shall return to later in this decision.
34. The Council identifies that the hedgerows within the site form part of a historic field system and, therefore, they have value as non-designated heritage assets (NDHAs). Whilst there would be some loss of hedgerow to facilitate the site access, extensive lengths of hedgerow would be retained within landscaped buffers; which could be secured through conditions and during the consideration of reserved matters applications. I am therefore satisfied that this historic field pattern and the hedgerows would remain evident, thus the NDHA would be preserved.
35. In addition to the heritage assets referenced above, there are several other historic buildings referred to in the evidence. These include the Grade II listed Vicarage

Farmhouse⁶, Manor Farmhouse⁷, and Granary at Manor Farm⁸ which have special interest due, in part, to their architecture and historic uses. Given the distance and intervening built form between the site and these assets, there is very limited visual connectivity. Therefore, whilst the appeal site lies within the setting of these buildings, it does not contribute to their significance insofar as it is relevant to this appeal. It is common ground that the setting and significance of these assets would be preserved, and I agree with this conclusion.

Accessibility to services and facilities

36. I am mindful of third-party comments, including from the Parish Council, that Wilstead would not provide for the full range of services and facilities to meet the needs of future occupants. From the evidence and my observations, there is a primary school, a shop, public houses, food establishments, a village hall, and a social club within Wilstead, all within a short walking distance from the site. Other retail, community and education facilities are available at Wixams, which could also be reached on foot or by bicycle from the proposed dwellings utilising the enhanced footpaths and cycleways that are proposed as part of the scheme.
37. Where the local services and facilities in Wilstead and Wixams would not be sufficient in meeting some needs, or where capacity issues may exist, there is a regular, short, bus service to Bedford from Bedford Road, which would be accessible via new footway links and a road crossing proposed as part of the development. From here, there would be a wide range of services and facilities commensurate with Bedford's status as a major town in this area. There are also bus services from here to Milton Keynes, albeit the evidence suggests those services may be less frequent and the journeys longer in duration.
38. Overall, whilst it is inevitable that some residents would choose to travel by private car, I am satisfied that there would be good opportunities for future occupants to meet their daily needs via a range of sustainable transport options.

Habitats and protected species

39. The Preliminary Ecological Appraisal (PEA) identified the hedgerows as the most valuable habitats on the site, most of which would be retained. The small areas of hedgerow that would be lost to facilitate access to the site would be compensated for through replacement planting, which would form part of the landscaping proposals to be considered at reserved matters stage. The proposal would also be subject to the statutory requirement to deliver a net gain in biodiversity.
40. Given there is a high likelihood of Great Crested Newts being disturbed by the development, the works would be undertaken under a District Level Newt License. I have seen correspondence from the District Licensing Officer, confirming that the relevant certificate has been submitted and, therefore, I have no reason to doubt that a license would be issued.
41. The site also has the potential to support commuting and foraging bats as well as nesting birds, reptiles, and common amphibians. The PEA suggests a range of mitigation and enhancement measures in respect of these and other protected

⁶ List entry number 1114196

⁷ List entry number 1321583

⁸ List entry number 1114199

species, which I am satisfied would be sufficient to ensure that any adverse effects would be adequately avoided or mitigated.

42. Overall, I am satisfied that protected species and habitats would not be adversely affected by the proposal and that biodiversity would be enhanced.

Foul drainage

43. Anglian Water has stated that the Bedford Water Recycling Centre (WRC) currently does not have the capacity to receive foul flows from the development. However, it also states that Bedford WRC is included within its Business Plan as a named growth scheme, with investment planned between 2025-2030. On this basis, Anglian Water has recommended a planning condition to prevent the occupation of the proposed dwellings until there is sufficient headroom at the WRC, with the condition ceasing to have effect after April 2030.
44. I have seen correspondence from Anglian Water made during the lifetime of the application in which it confirmed that it is obligated to accept the foul flows from the development; and that it would take the necessary measures to ensure there would be sufficient treatment capacity if planning permission were granted. Given that there would be a significant lead in time between the grant of planning permission and the first occupation of the dwellings, I see no reason to conclude that Anglian Water would not carry out its planned investment in the WRC before the additional capacity would be required. Indeed, I heard that the first dwellings would not be ready for occupation until 2028/29, which would be towards the end of Anglian Water's investment period.
45. The parties' views are aligned that the condition suggested by Anglian Water would be unnecessary. Due to the fact that Anglian Water is obligated to accept the flows arising from the development, and that it plans to invest in the facility by April 2030 at the latest, I agree that the condition would be unnecessary. For the same reasons, there is no basis for a finding that the foul drainage network would not cater for the development if the appeal were to be allowed.

Flooding

46. A small area of the site, near to Duck End Lane, lies within Flood Zones 2 and 3. However, the parameter plan shows that no built development is proposed within this area of flood risk. Rather, the Flood Risk and Drainage Strategy identifies that the developable area of the site is at a low risk of flooding from all potential sources. Third parties have drawn my attention to some areas of localised pooling on the site. However, the surface water drainage proposals, which could be secured through a condition, would help to ameliorate this. Consequently, there would be no increased risk of flooding arising from the proposal.

Highway safety and access

47. The development would inevitably generate additional traffic. However, there is authoritative, technical evidence before me to show that there would be no harm caused in terms of highway safety or congestion. The Highway Authority has not raised any concerns in respect of the proposed access, highway safety, or road and junction capacity; and I find no convincing reason to depart from the views of this statutory consultee on highway matters. Overall, I am satisfied that the

proposal would safeguard the highway network, and that the access arrangements would be acceptable.

Noise and nuisance

48. Concerns were raised during the consultation process about noise levels arising from the nearby bottle bank. Noise levels could feasibly be made acceptable through a combination of detailed measures, including the site layout, landscaping, and the design of the dwellings, which would be relevant considerations during the determination of reserved matters applications.
49. Any nuisance arising during the construction process would be temporary in duration and could be managed through appropriate construction methods and safeguards, which could be secured through a condition. Therefore, this issue need not be an impediment to the grant of planning permission.

Agricultural land

50. The proposal would lead to the loss of agricultural land. However, the Agricultural Land Classification Report indicates that the land is Grade 3b and, therefore, it is not best and most versatile agricultural land as defined in the Framework. The proposal would accord with the provisions of the Framework, insofar as it expects poorer quality land to be preferred to higher quality land where there is a necessity for the significant development of agricultural land, as would be the case here.

Potential Future Developments

51. Concerns have been raised that the development would enable the further growth of Wilstead. However, any hypothetical future planning applications would necessarily be considered by the Council against the requirements of the development plan and other relevant considerations at the time. This appeal decision does not and cannot predetermine the outcome of those applications.

Benefits of the proposal

Contribution to housing supply

52. The Council concedes that it is currently only able to demonstrate 3.35 years of housing land supply (HLS), which is a significant shortfall against the five-year requirement of the Framework. Given that the Bedford Borough Local Plan 2040 has been withdrawn, there is no emerging plan at a sufficiently advanced stage to provide certainty that the HLS position is likely to recover in the near future.
53. I heard that, if the appeal is allowed, development would commence in July 2027 and that 126 homes would be constructed within the next five years; and there is no evidence before me to indicate that this trajectory would not be deliverable. The proposal would, therefore, make a meaningful contribution to addressing the housing shortfall and it would also contribute to longer term housing needs. The Framework seeks to significantly boost the supply of homes, and, in the context of the HLS position, the delivery of housing carries significant positive weight.

Affordable housing

54. The Council accepts that the delivery of affordable homes has fallen short of the requirement set out in the development plan. The proposal would provide 30% affordable housing, or 45 units, which would meet the requirement of Policy 58S of

the BBLP. Given there is an undersupply of affordable housing in the Borough and therefore a pressing need for additional affordable homes, this benefit carries significant weight.

Biodiversity net gains

55. There is a statutory requirement for biodiversity net gains of at least 10%, which would be provided through a mix of on-site and off-site measures. The enhancement in biodiversity weighs in favour of the scheme. However, the actual gains in this case would not be significant given the enhancements would be proportionate to the base-line biodiversity value of the site. For this reason, I ascribe moderate weight to this benefit.

Public open space

56. Public open space would be required to address the needs of future occupants of the scheme. However, it would also be within walking distance of existing communities who would have access to, and would benefit from, the proposed open space provisions. The parties agree that the delivery of open space is a benefit of the scheme and, in my judgement, it carries moderate positive weight.

Economic benefits

57. There would be economic benefits associated with the construction phase, including through employment and the local construction supply chain. In the longer term, future residents would increase spending and trade, which would help to support the vitality of rural communities and local services and facilities. The benefits in this case have not been quantified and would be commensurate to the scale of the development proposed. In this context, they carry moderate weight.

Pedestrian and cycle links

58. Whilst the new pedestrian and cycle links would be required to provide safe access to the site for future occupiers, the links would also be of wider benefit to the existing community. The proposed footpath along the north-eastern edge of Bedford Road, and the pedestrian crossing, would enhance accessibility, convenience, and safety for existing residents as well as future occupiers. In my judgement, this is a benefit that carries moderate weight.

The Forest of Marston Vale

59. Extensive tree planting is proposed to accord with the requirements of Policy 36S of the BBLP, which expects 30% tree cover to support the creation of the Forest of Marston Vale. The appellant indicates that the proposal would exceed the policy requirement. However, landscaping is a reserved matter, and the extent of the tree cover is not certain at this stage. Nonetheless, the minimum tree cover could be secured through a condition; and I have no reason to find that the site could not accommodate the planting proposed. Given the uncertainty as to the extent of the additional tree cover at this stage, the benefit carries limited weight.

Planning Obligation

60. I have considered the obligations within the S106 Agreement against the tests set out in the Community Infrastructure Regulations 2010 (the CIL Regulations) and the Framework, noting that the parties agree that the obligations comply with the

tests. The tests require that obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

61. The S106 Agreement provides for the submission of an affordable housing scheme, which is necessary to ensure compliance with Policy 58S of the BBLP. The obligation to secure the delivery of accessible and wheelchair user dwellings is a requirement of Policy 59S of the BBLP and, therefore, is necessary and related to the development.
62. Obligations relating to the provision, management and maintenance of open space would be necessary to meet the needs of future occupiers in accordance with the requirements of Policy AD28 of the ADLP. The S106 also secures the delivery of the off-site highway works that are necessary to make the development acceptable in planning terms and to facilitate and promote the use of sustainable travel modes in accordance with Policies 31, 53, and 86s of the BBLP.
63. Further obligations provide for financial contributions towards healthcare facilities; and education, including early years, secondary education, and special educational needs. The contributions have been calculated based on population projections and standardised costs, which were explained at the hearing. I am satisfied from what I have seen and heard that each of these financial contributions would be used for capital projects and for a local need arising from the development.
64. The S106 also includes provision for the management, monitoring and maintenance of sustainable urban drainage systems and biodiversity areas, which would be necessary to ensure these features would endure in the long term.
65. Overall, I find that each of the obligations in the S106 would meet the tests set out in the CIL Regulations and the Framework; and I have taken them into account in reaching my decision on this appeal. The parties are satisfied that the S106 would be effective and enforceable, and I see no reason to form a different view.
66. The East of England Ambulance Service NHS Trust requested financial contributions, noting that the additional population would increase pressure on the Kempston Ambulance Hub (the hub). The contributions sought would help to fund the costs associated with the relocation, expansion, and installation of electric vehicle charging infrastructure at the hub. I acknowledge that capital funding for the ambulance service does not increase when new homes are built. However, it is not clear how the financial contribution sought has been calculated and how it would directly relate to the development. Therefore, I cannot be satisfied that the contribution would meet the tests in the CIL Regulations. For this reason, the absence of this contribution does not weigh against the proposal.

Heritage and Planning Balance

Heritage balance

67. The proposal would cause less than substantial harm to the significance of Dove Cottage, Duck End Farm House, and Duck End Barn through development within their settings. The parties agree that the extent of the harm caused to each of the listed buildings would be minor; and in my judgement it would be at the low end of the range within the category of less than substantial harm.

68. The harm to each of the listed buildings is of considerable weight and importance, and I also ascribe great weight to the conservation of these designated heritage assets. However, in my judgement and having regard to my duties under the Act, I find that the public benefits I have identified in this case, particularly relating to the delivery of market and affordable housing where there is a significant shortfall, would be sufficient to outweigh the cumulative harm that would be caused to the significance of the listed buildings. On this basis, the harm to the heritage assets carries the clear and convincing justification required by the Framework and there would be no conflict with Policy 41S of the BBLP.

Planning balance

69. The conflict with Policy AD42 of the ADLP and Policy 7S of the BBLP brings the proposal into conflict with the development plan. However, because of the HLS position, paragraph 11 d) of the Framework, and the similar provisions in Policy AD1 of the ADLP, are engaged
70. Having found that the harm to the significance of the heritage assets would be outweighed by the public benefits of the proposal, there are no circumstances before me to indicate that there would be a strong reason for refusing the development proposed under the provisions of either Paragraph 11 d) i. of the Framework or Policy AD1 ii. of the ADLP. Therefore, the proposal falls to be considered under the test set out in Paragraph 11 d) ii. of the Framework and Policy AD1 i. of the ADLP
71. Adverse effects would arise through the physical and visual diminishment of the Local Gap between Wilstead and Wixhams, the harmful change in the character of the Local Gap, and the harm that would be caused to the character, setting, and identity of Wilstead. Whilst the Framework does not include specific provisions relating to settlement gaps, it nonetheless expects proposals to improve the environment, to be sympathetic to local character and history, and to maintain a strong sense of place. These provisions reflect some of the objectives of Policy AD42 and, therefore, the policy remains a pertinent consideration in my decision.
72. Harm would also arise through the conflict with Policy 7S of the BBLP due to the site's location outside of the settlement boundary of Wilstead, in the countryside. However, the Framework does not preclude development outside of defined settlement boundaries, and the site would be well located to provide good accessibility to services and facilities by sustainable travel modes. The proposal would, therefore, accord with the Framework's expectations in respect of directing development to sustainable locations. Moreover, I have found that the harm to the character of the area would be localised; and therefore, in my judgement, the proposal would accord with the Framework's expectation that the intrinsic character and beauty of the countryside should be recognised, and it would not run counter to the findings of the Courts⁹ in this respect.
73. The significant shortfall in the HLS indicates that sites for housing will need to come forward beyond those identified as preferred locations in the development plan. Taking account of this and the specific context of the site and the surroundings, I ascribe limited weight to the conflict with Policy 7S of the BBLP.

⁹ Including *Alwyn De Souza v SSLCG and others* [2015] EWHC 2245 (Admin)

74. Adverse effects would also arise in respect of the listed buildings, although I have found that the public benefits of the proposal would outweigh the heritage harm.
75. Set against these harms would be the benefits of the scheme, including the provision of market and affordable housing, each of which carry significant positive weight. I have also ascribed positive weight to the delivery of biodiversity net gains, public open space, tree planting in the Forest of Marston Vale, and improved footpath and cycle links. The economic benefits arising in the construction phase and in the longer term also weigh in favour of the scheme.
76. The parties agreed at the hearing that the carrying out of the planning balancing exercise is ultimately a matter for the decision maker, although I have had regard to the judgements made in the other appeal decisions to which I have been referred, including the decision at Fareham¹⁰.
77. In the specific circumstances of this case, it is my judgement that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole and having particular regard to the key policies referred to in Paragraph 11 d) ii. of the Framework. The proposal therefore benefits from the presumption in favour of sustainable development set out in the Framework and in Policy AD1 of the ADLP.

Conditions

78. I have considered the suggested conditions agreed between the parties against the tests for conditions set out in the Framework. Where necessary, I have amended the wording of the conditions to ensure compliance with the tests or in the interests of brevity and consistency.
79. I have included a condition specifying the relevant plans (1) to provide certainty as well as the standard conditions relating to the submission of reserved matters (2) and time limits (3). Condition 4 is necessary to ensure the timely delivery of the infrastructure required to support the dwellings.
80. Condition 5 is necessary in the interest of highway safety and to protect the living conditions of nearby residents during the construction period. Conditions 6 is required to safeguard heritage assets of archaeological interest.
81. Conditions 7, 8, 9, and 10 are necessary to safeguard human health and the natural environment, including biodiversity features and trees, during the construction process.
82. Condition 11 is required in the interests of highway safety. Conditions 12-14 are imposed in order to ensure the protection of great crested newts.
83. Conditions 15, 16, 17, and 18 are necessary to ensure the effects of the proposal on local character, and the details of open space and play provision, can be properly considered as part of the reserved matters submissions. Similarly, conditions 19-22 are required to ensure that proper consideration can be given to pedestrian safety, the management of streets, and refuse storage and collection at the reserved matters stage. I have altered the trigger for these conditions because they relate to matters that will necessarily be determined as part of the reserved matters submission(s) for layout.

¹⁰ Appeal decision reference: APP/A1720/W/22/3299739, dated 23 November 2022

84. Condition 23 is required to ensure there would be adequate provision for surface water drainage and to avoid the risk of flooding. Conditions 24 and 25 are imposed to ensure there would be an adequate standard of accommodation for future occupiers of the dwellings.
85. Condition 26 is necessary in the interests of highway safety and to protect the character and identity of Wilstead. However, I am not convinced it is necessary for the gateway feature to be finalised at an early stage of the construction process, and I have therefore adjusted the suggested trigger for this condition.
86. Condition 27 is required to ensure that sustainable travel modes are encouraged and prioritised. Condition 28 is necessary to ensure adequate provision of fire hydrants in the interests of fire safety. Finally, condition 29 is imposed to safeguard protected species, local character, and the living conditions of residents.
87. Further suggested conditions relating to external materials, and the timing of the delivery of hard-surfacing and vehicular turning places are detailed matters that relate to the reserved matters. It is not necessary for these to be covered by conditions on this outline planning permission.
88. Due to the provisions of Schedule 7 of the Town and Country Planning Act 1990, and as none of the statutory exemptions apply in this case, the development may not be begun unless a biodiversity gain plan (BGP) has been submitted to and approved in writing by the local planning authority. Because the biodiversity gain objective has a separate statutory basis as a planning condition, it is not necessary for me to include it within the schedule of conditions on this decision. Furthermore, the Council may only approve the BGP if it is satisfied that the biodiversity gain objective is met, and there is no reason before me to suggest that the Council could not, if necessary, secure the implementation of the measures in the BGP when approving the plan.

Conclusion

89. Overall, and notwithstanding the provisions of Policy AD1 of the ADLP, it is my assessment that the conflict with Policy AD42 of the ADLP and Policy 7S of the BBLP brings the proposal into conflict with the development plan when read as a whole. However, in this case, the material considerations, including the provisions of the Framework, indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons give above, the appeal should be allowed.

E Catchside
INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be carried out in accordance with the following approved plans: Site Location Plan 24-953-03C and Proposed Access Junction Layout ADC2364-DR-003 P06.

- 2) Details of the appearance, landscaping, layout, and scale (hereinafter called “the reserved matters”) shall be submitted and approved in writing by the Local Planning Authority before any development takes place. The reserved matters details shall accord with the Parameter Plan 24-953-03D. The development shall be carried out in accordance with the approved details.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission. The development shall begin not later than two years from the date of the approval of the last reserved matter to be approved.
- 4) Should the site be developed in phases, a Site Wide Phasing Plan shall be submitted to and approved in writing by the local planning authority prior to the approval of the first reserved matters application. The Site Wide Phasing Plan shall define the phases of the development and the sequence in which the following elements will be provided, as relevant:
 - (i) Development parcels;
 - (ii) Infrastructure including all accesses, primary roads and routes within the site, primary footpaths and cycleways, including timing of provision and opening of access points into the site, and the off-site works;
 - (iii) Surface water drainage features, SuDS and the foul water drainage network;
 - (iv) Formal and informal public open space, including the provision for children’s play;
 - (v) Strategic landscaping on the boundaries of the site;
 - (vi) Strategic electricity, telecommunications and potable water mains provision.

The development shall thereafter be carried out in accordance with the approved Site Wide Phasing Plan.

- 5) For each phase of the development, no development shall take place (including site clearance), until a Construction Management Plan for that phase has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include the following details:
 - (i) The parking of vehicles;
 - (ii) Loading and unloading of plant and materials used in the development;
 - (iii) Storage of plant and materials used in the development;
 - (iv) The erection and maintenance of security hoarding/scaffolding affecting the highway (if required)
 - (v) Measures to control the deposition of dirt/mud on surrounding roads during the development;
 - (vi) Footpath/footway/cycleway and road closures and traffic diversions needed during the construction period;
 - (vii) Traffic management needed at the interface with the public highway during the development period;
 - (viii) Times, routes (to include specific measures such as delivery ticket instructions and location of signage) and means of access and egress for

construction traffic and delivery vehicles (including the import of materials and the removal of waste from the site).

The construction of the development within each phase shall be carried out in accordance with the approved Construction Management Plan.

- 6) For each phase of the development, no development shall take place until an archaeological strategy for evaluation and, if necessary, a further mitigation strategy for that phase based on the outcome of the evaluation, have been submitted to and approved in writing by the local planning authority. The archaeological mitigation strategy shall include a timetable for works and the following components:
- (i) Fieldwork and/or preservation “in situ” of archaeological remains;
 - (ii) A post-excavation assessment report (to be submitted within six months of the completion of fieldwork)
 - (iii) A post-excavation analysis report, preparation of site archive ready for deposition at a store approved by the local planning authority, completion of an archive report, and submission of a publication report (to be completed within two years of the completion of fieldwork).

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timetable.

- 7) For each phase of the development, no development shall take place until a Preliminary Environmental Risk Assessment Report for that phase, containing a Conceptual Site Model that indicates sources, pathways and receptors, has been submitted to and approved in writing by the local planning authority. The report shall identify the current and past land uses of the site and adjacent sites, with a view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

If the Preliminary Environmental Risk Assessment Report identifies a reasonable likelihood of harmful contamination, then no development within that phase shall be commenced until an Intrusive Site Investigation Risk Assessment Report has been submitted to and approved in writing by the local planning authority. The Site Investigation Risk Assessment Report shall identify the location and concentration of all pollutants on the site, the presence of receptors, and the results and recommendations from an appropriate risk assessment methodology.

No development shall take place on any part of the site where the risk assessment identifies an unacceptable risk arising from contamination until (a) remediation works have been carried out in accordance with a Remediation Method Statement that has first been submitted to and approved in writing by the local planning authority; and (b) a Remediation Verification Report, confirming that the site is suitable for use, has been submitted to and approved in writing by the local planning authority.

Any contamination that is found during the construction of the development that was not previously identified shall be reported to the local planning authority as

soon as practically possible. Development on the part of the site affected shall be suspended and a risk assessment shall be carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 8) Prior to the commencement of the development, a Construction Ecological Environmental Management Plan (CeEMP) shall be submitted to and approved in writing by the local planning authority. The CeEMP shall include the following details:

- (i) Risk assessment of potentially damaging construction activities;
- (ii) Identification of “biodiversity protection zones”;
- (iii) 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)
- (iv) The location and timings of sensitive works to avoid harm to biodiversity features;
- (v) The times during construction when specialist ecologists need to be present on site to oversee works;
- (vi) Responsible persons and lines of communication;
- (vii) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- (viii) Use of protective fences, exclusion barriers, and warning signs if applicable.

The approved CeEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 9) Prior to the commencement of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The contents of the LEMP shall include:

- (i) Description and evaluation of features to be managed;
- (ii) Ecological trends and constraints on site that might influence management;
- (iii) Aims and objectives of management;
- (iv) Appropriate management options for achieving aims and objectives;
- (v) Prescriptions of management actions;
- (vi) Prescription of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period);
- (vii) Details of the body or organisation responsible for implementation of the plan;
- (viii) Ongoing monitoring and remedial measures. These shall include details of how the long-term implementation of the plan will be monitored and delivered and shall identify how contingencies and/or remedial action will be identified, agreed, and implemented in order to ensure the delivery of the biodiversity objectives of the scheme.

The LEMP shall thereafter be carried out in accordance with the approved details.

- 10) No development shall take place until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. The method statement shall detail all tree protection measures and set out working methods which are to be implemented across each phase. The development shall thereafter be carried out in accordance with the approved details.
- 11) Notwithstanding the details shown on the approved plans, no development shall take place until details of the junction of the vehicular access with Bedford Road, including a timetable for the construction of the associated works and measures to prevent surface water from entering the highway, have been submitted to and approved in writing by the local planning authority. The junction shall be constructed to base course level, in accordance with the approved details, prior to the development commencing. No dwelling shall be occupied until the junction has been completed in full accordance with the approved details, including the provision of the surface course.
- 12) No development shall take place except in complete accordance with the terms and conditions of the Council's Organisational License (WML-OR152, or a 'Further License') and with the proposals detailed on plan "Land on the East of Duck End Lane: Impact plan for great crested newt District Licensing (Version 1), dated 6 October 2025.
- 13) No development shall take place unless and until a certificate from the Delivery Partner (as set out in the District License VML-OR152, or a 'Further License'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved in writing by the local planning authority and the authority has provided authorisation for the development to proceed under the district newt licence.
- 14) No development shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District License (WML-OR152, or a 'Further License') and in compliance with the following:
 - Works to existing ponds onsite may only be undertaken during the autumn/winter, unless otherwise in accordance with Great Crested Newt Mitigation Principles.
 - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
 - Capture methods must be used at suitable habitat features prior to the commencement of the development, which may include the use of temporary amphibian fencing, to prevent newts moving onto the development site from adjacent suitable habitat, installed for the period of the construction of the development and removed upon completion of the development.
 - Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to the commencement of the development.

15) The reserved matters submission for landscaping shall include the following details:

- (i) A survey of existing trees, shrubs and hedges giving their species, location, height, spread and condition and indicating those which are to be retained and those which are to be removed.
- (ii) Planting proposals giving location, species, number, density and planting size.
- (iii) Details of how a minimum 30% tree cover, to accord with the policy requirements for the Forest of Marston Vale, shall be achieved on the site;
- (iv) The relationship of new planting to buildings, roads, footpaths, drains and the location of all underground and overground services;
- (v) Areas of grass turfing or seeding and other surface materials;
- (vi) Depth of topsoil to be provided where necessary and the measures to be taken to maintain the new planting;
- (vii) Details of all hard landscaping works, paving materials, street furniture, bollards and bins;
- (viii) Details of long-term management and maintenance proposals for the new planting
- (ix) A timetable for the implementation of the works including the provision of strategic landscaping and any phasing of provision at the site.

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

16) The reserved matters submissions for layout and landscaping shall include a plan showing all associated open space areas and the following details:

- (i) The type of open space proposed and area in square metres, to accord with Appendix 6 of the Open Space Supplementary Planning Document;
- (ii) Access points for pedestrians and maintenance vehicles, and measures to prevent unauthorised vehicles from accessing the open space;
- (iii) Litter bin numbers and locations.

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

17) The reserved matters submission for layout shall include a detailed plan of the equipped play area(s) and the following details:

- (i) Play equipment types, locations and material finish;
- (ii) Safety surfacing type and colour;
- (iii) Details of fencing, gates, benches and litter bins;
- (iv) Distance from dwellings (minimum 20m);
- (v) Details of access paths including material finish.

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

18) The reserved matters submissions for scale and layout shall include detailed drawings to show the existing and proposed ground levels and the finished floor levels for the development. The development shall thereafter be implemented in accordance with the approved details.

- 19) The reserved matters submission for layout shall include details of the location, type and colour of surfacing materials of carriageways, shared surfaces, ramps, raised tables, footways, footway-cycleways, paths in public open spaces, access paths to cycle parking and houses, individual and shared private driveways, public/visitor parking, and measures to prevent surface water from draining onto proposed highways. The development shall thereafter be implemented in accordance with the details approved.
- 20) The reserved matters submission for layout shall include details of the arrangements for the future management and maintenance of streets and footpaths/cycle paths. The streets and footpaths/cycle paths shall thereafter be managed and maintained in accordance with the approved details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
- 21) The reserved matters submission for layout shall include details of bin storage and collection points. The development shall thereafter be implemented in accordance with the details approved.
- 22) The reserved matters submission for layout shall include details of triangular pedestrian visibility splays, measuring 1.8 metres x 1.8 metres adjacent to the rear edge of any footway on each side of any driveway and/or vehicular access that crosses a footway. The splays shall be provided before the access to which the splays relate is brought into use and the splays shall be kept free of any obstruction over the height of 0.6 metres above ground level.
- 23) The reserved matters submission for layout shall include a surface water drainage scheme, which demonstrates that there will be storage for a 1 in 100-year rainfall event plus 40% climate change with a 10% allowance for Urban Creep, and that any discharge rate from the development will be at Greenfield runoff rate or below. The development shall thereafter be implemented in accordance with the details approved.
- 24) The reserved matters submission for layout and appearance shall include details of measures to be taken to ensure that all habitable rooms that, without mitigation, would be exposed to external road noise in excess of 55dBA Leq 16 hour (free field) during the day (0700 hours to 2300 hours) or 45dBA Leq 8 hour (free field) during the night (2300 hours to 0700 hours) shall achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour during the night and shall be effectively ventilated without opening windows. No dwelling that falls within the scope of this condition shall be occupied until the approved measures for that dwelling have been provided and the measures shall thereafter be retained.
- 25) The reserved matters submissions for layout and appearance shall include details of measures to be taken to ensure that the maximum daytime noise level in private outdoor amenity areas shall not exceed 50dBA Leq 16 hour (free field). No dwelling shall be occupied until the approved measures for that dwelling have been provided and the measures shall thereafter be retained.

26) Notwithstanding the details shown on the approved plans, no dwelling shall be occupied until details of a gateway feature, including signage to show the speed limit and village name, has been submitted to and approved in writing by the local planning authority. The gateway feature shall thereafter be installed in accordance with the approved details before any dwelling is first occupied.

27) No dwelling shall be first occupied until a detailed travel plan has been submitted to and approved in writing by the local planning authority. The travel plan shall include:

- (i) A baseline survey of the site occupants (if known) or a timetable to undertake a baseline survey of occupants (within 6 months of first occupation) to establish current/proposed travel patterns;
- (ii) Details of existing and proposed transport provision and facilities, to include links to pedestrian, cycle and public transport networks and conformity with the local planning authority's car and cycle parking standards;
- (iii) Proposals and measures to minimise private car use and facilitate walking, cycling and public transport;
- (iv) Details Travel Plan targets with relevant target dates;
- (v) A details Action Plan to include specific timetabled measures designed to promote travel choice;
- (vi) Proposed plans/methods to monitor and undertake annual reviews of the Travel Plan and its targets for a period of 5 years, including details for submitting the review to the local planning authority for approval;
- (vii) Details of site-specific marketing and publicity information to be provided to all occupiers of the development to include: site specific travel and transport information, incentives to encourage sustainable modes of travel, details of relevant pedestrian, cycle and public transport routes to/from and within the site, maps showing the location of shops and other facilities, and copies of relevant bus and rail timetables
- (viii) The appointment of a co-ordinator who will be responsible for the preparation and submission of the Action Plan and the annual reviews.

The Travel Plan shall thereafter be implemented in accordance with the approved details.

28) No dwelling shall be first occupied until a scheme for the provision of fire hydrants, including a timetable for the delivery of the fire hydrants, has been submitted to and approved in writing by the local planning authority. The fire hydrants shall thereafter be delivered in accordance with the approved scheme.

29) No external lighting shall be installed on the site except in accordance with an external lighting scheme that has first been submitted to and approved in writing by the local planning authority.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Christopher Katkowski CBE KC, Kings Chambers

Michael Robson BA(Hons) DipTP MRTPI, Cerda Planning

James Morton BA (Hons) MA CMLI, Aspect Landscape Planning

Chris May LLB LARTPI, Freeths

FOR THE LOCAL PLANNING AUTHORITY:

Phillip E Hughes BA (Hons) MRTPI FRGS FRSA Dip Man MCMI (Planning Matters)

Paul Reynolds CMLI FRSA (Landscape)

Alistair Wren MRTPI, Bedford Borough Council

Penelope Jewitt, Bedford Borough Council

INTERESTED PARTIES:

Mark Brooks, Wilstead Parish Council

Lizzie Barnicoat, Wilstead Parish Council

DOCUMENTS SUBMITTED AFTER THE HEARING:

1. Completed S106 Agreement, dated 14 May 2026.
2. Revised schedule of conditions