



Appeal Decision

Inquiry Held on 12/13 December 2017 and 1/2 May 2018

Site visit made on 1 May 2018

by J Wilde C Eng MICE

an Inspector appointed by the Secretary of State

Decision date: 16 August 2018

Appeal Ref: APP/P0240/W/16/3164961

Land between 103 and 27 Langford Road, Henlow, Bedfordshire SG16 6AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/02721/OUT, dated 8 July 2016, was refused by notice dated 6 October 2016.
 - The development proposed is up to 135 residential dwellings (including up to 35% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access points from Langford Road and associated ancillary works.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 9 July 2018.

Decision

1. The appeal is dismissed.

Procedural matters

2. The Inquiry was opened on 12 December 2017, adjourned on 13 December and then resumed on 1 May 2018. I carried out an unaccompanied site visit on 11 December 2017 and an accompanied site visit on 1 May 2018.
3. The application was made in outline with all matters apart from access reserved for later determination.
4. The Council originally put forward two reasons for refusal. One of these reasons related to the absence of a legal agreement necessary to secure, amongst other things, financial contributions and the provision of affordable housing. A draft Section 106 agreement was supplied prior to the Inquiry and a signed and dated version was supplied to me within a timeframe agreed at the Inquiry. The presence of this Section 106 agreement, which I will return to later in this decision, means that the Council's second reason for refusal has been overcome. The remaining issue is therefore as given below.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, with any identified harm being assessed within the

context of the Council's housing land supply situation, and the effect that this, in turn, has on the weight to be given to that harm.

Reasons

6. The appeal site is an arable field of about 6 hectares to the north of the village of Henlow. The site is bounded by the A6001 (Langford Road) to the east and falls away westwards towards the Henlow Brook. The site, whilst adjoining ribbon development that is part of the settlement to the south, is nonetheless outside of the settlement boundary and in planning terms is therefore within the countryside.
7. I have been provided with a Landscape and Visual Appraisal (LVA) prepared by FPCR Environment and Design Ltd on behalf of the appellant. The LVA has been prepared in accordance with the Guidelines for Landscape and Visual Impact Assessment, third edition, and looks at both the landscape and visual effects of the proposed development. I will deal with each in turn, referring to the LVA as and when necessary.

Landscape

8. In terms of national character the site lies within the Bedfordshire and Cambridge Claylands National Character Area (CCNCA). With respect to local character the site falls within Landscape Character Type 4C, the Upper Ivel Clay Valley. This is shown as having characteristics such as *a mixed land use predominately of arable farmland and large and medium scale geometric arable fields bounded by hedgerows*. The appeal site accords with this general description.
9. The LVA concludes that the effect of the proposed development on the character of the CCNCA would be negligible and I agree with this assessment. As regards the effect of the proposed development on the Upper Ivel Clay Valley, the LVA concludes that there would be a minor adverse to negligible impact at ten years after completion of the scheme. This is based on the context of the site being influenced, amongst other things, by *the surrounding urban development and retaining the existing boundaries*.
10. However, the existing urban development is limited to the ribbon development extending out from Henlow to the south-east and the row of dwellings to the north-east. I acknowledge that there is development to the south but this is further away and screened. There is no development to the east or west of the site and the boundary fronting Langford Road would be reduced to make way for additional access points. Whilst I accept that in the context of the Upper Ivel, Clay Valley the site is relatively small I nonetheless consider that the effect produced by the proposal on it would be moderate-minor adverse.
11. The LVA considers that the effect of the proposed development on the site and its immediate context would be minor adverse after ten years. However, I note that the definition of minor given in the LVA is *an effect that will entail limited or localised change to the existing landscape or will entail more noticeable localised change but including both adverse and beneficial effects and is likely to retain or incorporate some characteristics/features currently present*.
12. The proposed development would replace an open arable field with built development. I acknowledge that the boundaries would largely remain in

place, that landscaping would be undertaken within the site and that the site is not part of a designated landscape. Notwithstanding this however, the proposed scheme would be of a completely different nature to that which currently exists. The landscape of the site would fundamentally change and would be in direct contrast to that which currently exists. According to the definition in the LVA this would therefore be a major effect.

Visual

13. Figure 6 of the LVA gives a Zone of Theoretical Visibility and a series of viewpoints from which the site can be seen. I will consider each viewpoint in turn. Viewpoints 1, 4 and 5 are along Langford Road, close to the site. At present the site can be seen as an open arable field with views to the west of woodland and fields. The sense of openness is added to by the absence of built form to the east. Views from viewpoint 1 would also encompass the built development of Clifton in the distance and that going south along Langford Road beyond the site. From viewpoint 5 the proposed development would be seen as extending the built form further into the countryside, and this view has a particularly rural aspect due to the presence of several woods to the north-west (including Baulk Wood) which due to the angle of view, appear to form one extent of woodland.
14. Receptors would be people walking along the adjacent footway and drivers. The drivers would be mostly in transit and would be concentrating on the road. The walkers would however be more aware of their surroundings and would have views of the proposed housing estate through and over the existing boundary vegetation and also directly through the newly formed entrances. The new development would also contrast sharply with the lack of built form and rural nature of the land to the east of the road.
15. The LVA attributes the sensitivity of these receptors as low. However, I consider that, in light of my comments above, the pedestrians would have a medium sensitivity and the overall effect after ten years would be moderate adverse.
16. Viewpoints 2 and 3 are along the public right of way that runs along the east side of the field to the east of Langford Road. The field falls away towards the east such that views of the proposed development would generally be of the tops of the dwellings seen over the boundary vegetation. However the proposed development would be much more noticeable as walkers approached Langford Road towards viewpoint 5. The LVA rates the sensitivity of these receptors as high, which I agree with. The proposed development would be seen as filling the gap between the existing ribbon development to the south and the relatively few houses to the north. To my mind the LVA underplays the overall effect of this in rating the overall effect after ten years as minor adverse-negligible. Given that the existing sky views would be replaced with views of built form I consider that this should be rated as moderate adverse.
17. Viewpoints 6 to 9 are from various locations along Stockbridge Road. At viewpoint 6 the view is currently of wind turbines in the distance with some built form in evidence, including the slender floodlights of Langford football ground. The proposed development would be seen through and over existing vegetation and would change what is essentially a rural view to one of a much more domesticated nature. The same can be said for the view from viewpoint 9 although this is somewhat further away from the site.

18. In respect of receptors at these points, once again drivers would be generally concentrating on the road and views of the proposed development would be transitory. However pedestrians would have longer to take in the view and I note that Stockbridge Road forms part of a promoted recreational route. The LVA, whilst accepting that the susceptibility to change for pedestrians would be high goes on to rate the overall effect at year 10 as minor adverse to negligible. However, the development would increase the sense of domestication and also lend a sense of enclosure, particularly to receptors at viewpoint 6. To my mind the LVA downplays the eventual effect of the proposed development, which to my mind should be moderate-minor adverse.
19. Viewpoints 7 and 8 are along the PROW known as Clifton 6. Due to the topography and the existing hedges very little of the proposed development would be visible. I therefore agree with the LVA that the visual effect at ten years would be negligible.
20. Viewpoint 10 is situated on the bridleway to the north-west of the appeal site. From here the proposed development would be seen as a major intrusion of built form into the existing rural open aspect. The feeling of intrusion would be exacerbated by the fact that the land between the viewpoint and the appeal site falls away to the Henlow Brook, resulting in the appeal site being very prominent. Once again, given that the susceptibility of the receptors would be high and that the landscape would be irrevocably changed in character, I consider that the LVA has underplayed the overall effect. I acknowledge that landscaping would to an extent mitigate the harsh effect of the built form, but nonetheless consider that, even after ten years, the overall effect would be major adverse.
21. Views of the site would also be available from several nearby properties. To the north the nearest property would be just over the boundary of the site. Views would be available from the garden and oblique views would be available from first floor windows. The most affected residents would be those living in the dwelling directly to the south of the site. At present they have a rural view from the first floor windows over an arable field to the woods to the north. This would be replaced by a view of a housing estate. Neighbouring properties would have more oblique views of the site.
22. To the east of Langford Road the northernmost property in the line of development stretching out from Henlow would also be severely affected, with the first floor views over the appeal site being changed completely in nature.
23. The LVA rates the overall effect of this for the properties south of the site at ten years as major adverse to minor adverse. I agree with this, and consider that the residents of the two northernmost properties would suffer the major adverse effect.
24. To summarise, I have found that the proposed development would have a major adverse landscape effect on the site and its immediate context and also that there would be major adverse effects on several visual receptors as well as moderate adverse on others.

Coalescence

25. In terms of coalescence of communities I note that the Central Bedfordshire Landscape Character Assessment (CBLCA) states on page 71 that *the Upper*

Ivel Clay Valley contains fairly dense settlement of large villages and market towns (Langford, Shefford, Stotfold, Henlow and Arlesey) spreading along the roads and in some cases almost joining to form continual settlements (for instance Shefford, Clifton and Henlow in the east of the area). In terms of guidelines for new development the CBLCA notes that the coalescence of towns and villages should be avoided.

26. I accept that the proposed development would not in itself result in the joining together of either Henlow and Clifton or Henlow and Langford and I note that the site is not included in policies designed to prevent such coalescence. However, the proposed development would push the continuation of built form further towards Langford to the north and towards Stockbridge Farm (and hence Clifton) to the west. It therefore could be seen as the first step in a process that would lessen the open rural aspect and could eventually lead to coalescence.
27. I also note that the CBLCA promotes the conservation of the character of secondary roads, limiting urbanising influences. In extending housing along one side of the Langford Road the proposed development would be in conflict with this aim.
28. The Council have cited four development plan policies that they consider that the proposed development would be in conflict with.
29. However, the appellant has put forward a number of reasons why they consider that various policies in the CS¹ are either out of date, such that the conflict with them should be afforded less weight, or irrelevant to this case. I shall therefore consider these in turn before returning to a full conclusion on issue of character and appearance. Firstly though I will deal with the issue of five year housing land supply.

Five year housing land supply

30. The parties are agreed that the Council can demonstrate a five year supply of housing land if the Objectively Assessed Need figure of 1600 dwellings per annum (dpa) is accepted. However, the Council have recently submitted their Draft Local Plan (DLP) for examination and this contains a housing need figure of 1967 dpa. If this figure is taken as the housing need then the appellant considers that the Council would be unable to demonstrate a five year housing land supply. The difference between the two figures comes largely from an unmet need from Luton which is likely to be provided for within Central Bedfordshire. The DLP is subject to a number of objections including in respect of the figure of 1967.
31. The figure of 1600 dpa derives from the SHMA² which is the latest full assessment of housing needs. The Planning Practice Guidance (PPG) makes clear that this is the figure of housing need that should be considered where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight³.
32. The appellant has agreed in the Statement of Common Ground that the policies in the DLP should be given limited weight, and given that it has yet to be

¹ Central Bedfordshire Core Strategy and Development Management Policies November 2009

² Strategic Housing Market Assessment for Luton and Central Bedfordshire

³ ID: 3-030-20140306

examined and has significant objections, I agree with this position. Conversely, the appellant also considers that, as the DLP has now been submitted for examination, the figure of 1967 contained within it should be given considerable weight, as it now represents what the Council consider to be their future housing need.

33. However, I cannot agree that policies within the DLP should be treated differently to any figures contained within it. They are part and parcel of the same package and should be considered as such. I acknowledge that the PPG warns that the weight given to the latest full assessment of housing need (in this case the SHMA) should take account of the fact that it hasn't been tested, but nonetheless consider that, until such time as the DLP becomes adopted, the figure within the SHMA of 1600 dpa should be taken as the Council's housing need. It follows that the Council can demonstrate a five year housing land supply and that, in respect of this appeal, paragraph 49 of the National Planning Policy Framework (the Framework) does not bring into play the tilted balance contained within the fourth bullet point of paragraph 14 of the Framework.

Weight to be afforded to policy DM4

34. This is not however the only way in which the tilted balance can be brought into play and the appellant points to the weight that can be given to the current CS policies in light of paragraph 215 of the Framework, which makes clear that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The appellant points particularly in this respect to policy DM4.
35. On the surface, and read in isolation, policy DM4 is a restrictive policy based on an outdated housing need, in that it limits development outside of settlement boundaries to limited extensions to gardens, provided that they do not harm the character of the area. However the supporting text in 11.1.15 makes clear that certain types of development that are in accordance with the now defunct PPS7 will be permitted. These include exception schemes, dwellings for the essential needs of those employed in agriculture or forestry and the re-use or replacement of existing dwellings. Furthermore, the settlement envelopes referred to in the policy do not exist purely to accommodate the housing growth over the plan period but also, it is stated, to reflect 'the character of the predominant land use'.
36. The policy is not therefore completely restrictive and, whilst I acknowledge that paragraph 113 of the Framework seeks to protect landscape commensurate with its status, and that policy DM4 does not attempt to evaluate different landscapes, the Framework also makes clear in paragraph 17 that the intrinsic character and beauty of the countryside should be recognised. Furthermore, there is nothing in the Framework that indicates that the loss of undesignated land cannot be harmful to the character and appearance of an area and this is reinforced in the Cawrey judgement⁴, which confirms that the loss of undesignated countryside is capable of being harmful in the planning balance.
37. The overarching aim of policy DM4 is to promote residential development in appropriate areas. This was an objective of the Core Strategy at the time that it was adopted, and whilst this was prior to the introduction of the Framework,

⁴ [2016] EWHC 1198

it is still an objective that is very relevant and appropriate today and is a principle that still applies in the Framework, indeed it underpins the plan led system, which is itself specifically supported by the Framework. Furthermore, whilst the principle of settlement boundaries is not specifically mentioned in the Framework, nor is it discounted.

38. In this particular case the Council can demonstrate a five year housing land supply which indicates that the presence and use of DM4 has not been restrictive. I acknowledge that the Inspector in the recent Meppershall decision⁵ considered that the existence of a five year housing land supply was *despite* the existence of policy DM4. However, to my mind the examples of instances where development has been allowed contrary to policy DM4 indicates that a balancing exercise has been carried out in a pragmatic and correct way, and that consequently DM4 has not been used to restrict suitable development.
39. I note that in the draft Local Plan the present settlement boundaries are to be superseded, with a considerable amount of housing being promoted in areas outside of current settlement boundaries, and that in some cases housing has been allocated within the Green Belt. However, it has already been established that the draft Local Plan carries little weight at the current time.
40. In summary, based on the foregoing paragraphs, I find that some discrepancy in the wording of policy DM4 relative to paragraph 113 of the Framework indicates that it should not be afforded full weight. However, given that I have found that the underlying objectives of the policy still hold good, it should still command at least moderate weight and cannot therefore be construed to be 'out of date'. It follows that the tilted balance outlined in the fourth bullet point of paragraph 14 of the Framework is not engaged.
41. I note that there have been a series of appeal decisions⁶, including two that have been issued after the close of this Inquiry⁷, that have grappled with the weight to be given to DM4 and that the results have varied from the policy being afforded moderate weight to being out of date. I have also been made aware of appeal decisions in other Council areas that on the surface support the appellant's position. However, it would seem that the previous Inspectors, apart from two very recent decisions⁸, did not have the Daventry Court of Appeal legal judgement⁹ before them, and it is this that has helped inform my above reasoning. Furthermore, the weight afforded by an Inspector to particular policies in an appeal scenario is a matter of planning judgement, dependent upon not only the information presented, but also upon the way in which it has been presented.

Policy CS14

42. Policy CS14 relates to high quality development and requires, amongst other things, that development should respect local context and the varied character and local distinctiveness of Mid Bedfordshire's places. The appellant considers that the proposed development is capable of complying with this policy,

⁵ APP/P0240/W/17/3190584

⁶ APP/P0240/W/16/3166033 (Stotfold), APP/P0240/W/16/3152707 (Clophill), APP/P0240/W/17/3176444 (Potton), APP/P0240/W/17/3181269 (Cranfield 1), APP/P0240/W/17/3175605 (Meppershall), APP/P0240/W/17/3170248 (Silsoe),

⁷ APP/P0240/W/17/3176387 and that noted under footnote 5 above

⁸ APP/P0240/W/17/3186914 and that noted under footnote 5 above

⁹ Gladman Developments Limited v Daventry District Council, Case No: C1/2015/4315

particularly given that the application was in outline. They also consider that the policy is being used as an in-principle objection due to the site being outside of the settlement boundary.

43. I do not see it that way. One of the core planning principles enshrined in the Framework in paragraph 17 is to take account of the different roles and character of different areas. To my mind *respecting local context and the varied character and local distinctiveness of places* is entirely in line with this. Furthermore I do not accept that inserting a housing estate into what I have found to be a relatively rural environment can be deemed to be in accordance with the policy. Conflict with it therefore exists.

Policy CS16

44. Policy CS16 seeks to ensure, amongst other things, that development enhances landscapes of lesser quality in accordance with the Landscape Character Assessment and conserves and enhances the varied countryside character and local distinctiveness in accordance with the findings of the Mid Bedfordshire Character assessment.
45. I acknowledge that the preamble to the policy states that the Council will protect the Countryside for its own sake, but nonetheless consider that the policy is in general consistent with the Framework in terms of protecting landscapes commensurate with their importance. I therefore afford policy CS16 full weight, which I note is in line with the findings of other Inspectors.

Policy DM3

46. Policy DM3 of the CS requires, amongst other things, that development will be appropriate in scale and design to its setting. Whilst the policy is entitled *High Quality Development*, which is also required by the Framework, a reading of the preamble to the policy indicates that the policy is aimed at the design of the actual development and the buildings within it rather than how it relates to the wider landscape. For this reason, given that the application was in outline, I do not consider that the policy is relevant to this appeal.
47. At the Inquiry policy CS5 was also mentioned. This policy was referenced in the officer's report relating to the proposed development. The policy specifically relates to the provision of 17950 new homes during the currency of the Core Strategy (2001-2026). The policy has now been superseded by the SHMA figure, was not used in the Council's reason for refusal and is therefore also not relevant to this appeal.

Summary of policies and conflict

48. Previously, I have found that the proposed development would have a major adverse effect on the site and its immediate context and also that there would be major adverse effects on several visual receptors as well as moderate adverse on others. The proposed development could also be seen as a small incremental change that if continued, could result in the blurring of the identities of Henlow, Clifton and Langford.
49. I acknowledge that the proposed scheme includes several positive landscape features including a landscape corridor to the west of the site, a central green wedge and enhancements to the existing hedgerows and trees. Notwithstanding this however, taking into account my findings above relating

to weight to be attributed to the conflict with various policies there would be conflict with policy DM4, which carries at least moderate weight, with policy CS14 which carries full weight and with policy CS16 which also carries full weight. This conflict does however have to be balanced against the benefits of the scheme which I now turn to.

Planning balance

50. The scheme would produce 135 new dwellings which would in turn result in jobs and expenditure within the local economy by the future residents. These factors contribute to the social and economic limbs of sustainability, and I give considerable weight to the benefit that would accrue from the addition of these dwellings. This weight is however less than it would be if the Council were not able to demonstrate a five year supply of housing. The provision of 47 affordable homes would also be a significant benefit, although the amount of affordable homes is dictated by the development plan policy and would therefore be the same in any similar scheme.
51. I also acknowledge that the scheme would to an extent improve biodiversity and could contribute towards the green infrastructure plans of Henlow. In this respect I note the proposal to create a community park on land owned by the appellant to the west of the site. There is however no certainty within the present application that this will be provided, therefore the weight afforded to it is far less than it otherwise may have been.
52. Overall, however, none of these positive factors either individually or in combination outweigh the harm that I have found to the character and appearance of the area.

Section 106 Agreement

53. The Section 106 Agreement is dated 18 May 2018 and signed by the necessary parties. However, as I have found against the proposed development on the ground of character and appearance it is not necessary for me to assess whether or not the contents of the Agreement would comply with the tests set out in Section 122(2) of the Community Infrastructure Regulations 2010.

Conclusion

54. The proposal conflicts with the development plan taken as a whole and with the approach in the Framework. There are no material considerations that would indicate otherwise. The proposal does not represent sustainable development, and I therefore conclude that the appeal should be dismissed.

John Wilde

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Ms Saira Kabir Sheik QC

She called Mr Phillip Hughes of PHD Chartered Town Planners

FOR THE APPELLANT: Mr Giles Cannock of Counsel (December 2017 sitting) and Mr Peter Goatley of Counsel (May 2018 sitting)

He called Mr Timothy Jackson of FPCR Environment and Design Ltd
Mr Neil Tiley of Pegasus Group
Mr Christopher Still of Gladman Developments Ltd

DOCUMENTS SUBMITTED AT THE INQUIRY

December 2017

- 1 Appellant's comments at the Potton Inquiry in relation to the Clophill Decision letter.
- 2 Rebuttal Proof of Evidence prepared by Mr Tom Baker in response to the evidence of Mr Lawrence.
- 3 Update to the Proof of Evidence on housing need and supply matters by Mr Neil Tiley.
- 4 Update to the appendices pertaining to the Proof of Evidence on housing need and supply matters by Mr Neil Tiley.
- 5 Draft Planning Obligation by deed of undertaking.
- 6 Decision APP/P0240/W/16/3152707 (Clophill).
- 7 Council's comments at the Potton Inquiry in relation to the Clophill Decision letter.
- 8 Opening submissions by the appellant.
- 9 Council's suggested agenda for discussion on OAN.
- 10 Appellant's suggested agenda for discussion on OAN.

May 2018

- 1 Opening submissions of behalf of the appellant.
- 2 Opening submissions on behalf of the Council.
- 3 Linked Decisions APP/P0240/W/17/3170248 and APP/O0240/17/3172143 (Silsoe).
- 4 Updated housing supply figures.
- 5 Copy of letter dated 28 March 2018 from the Council to the

- Planning Inspectorate.
- 6 Response by the Planning Inspectorate.
- 7 Extract from the PPG (3-030-20140306).
- 8 List of suggested conditions and the appellant's comments in relation to these.
- 9 Decision APP/P0240/W/17/3186914 (Cranfield 2).
- 10 Approved Judgement (The Daventry judgement).
- 11 Approved Judgement (The Hinckley Judgement).
- 12 Approved Judgement (The Wokingham Judgement).
- 13 Draft Section 106 agreement.
- 14 Closing submissions on behalf of the Council.
- 15 Outline closing submissions on behalf of the appellant.
- 16 Addendum to closing submissions on behalf of the appellant.

Documents submitted after the Inquiry

- 17 Completed Section 106 agreement.
- 18 Appeal decision APP/P0240/W/17/3176387.
- 19 Appeal decision APP/P0240/W/17/3190584.
- 20 Appellant's comments in response to the Stotfold appeal.
- 21 Appellant's comments in response to the Meppershall appeal.
- 22 Council's comments in response to the Meppershall appeal.