



## Appeal Decision

Inquiry Held on 10-13 April 2018

Site visit made on 13 April 2018

**by Paul Singleton BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 May 2018**

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**Appeal Ref: APP/P0240/W/17/3190584**

**59 Shefford Road, Meppershall, Shefford SG17 5LL**

- 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/17/03887/OUT, dated 8 August 2017, was refused by notice dated 26 October 2017.
  - The development proposed is demolition of 59 Shefford Road and associated buildings and the erection of up to 145 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicle access from Shefford Road.
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### Decision

1. The appeal is allowed and outline planning permission is granted for demolition of 59 Shefford Road and associated buildings and the erection of up to 145 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicle access from Shefford Road at 59 Shefford Road, Meppershall, Shefford SG17 5LL in accordance with the terms of the application, Ref CB/17/03887/OUT, dated 8 August 2017, subject to the conditions in the attached schedule.

### Preliminary Matters

2. All matters other than means of access are reserved. The Development Framework Plan indicates the possible broad distribution of residential development, open space and green infrastructure and the main elements of the sustainable drainage system (SuDS) but is for illustrative purposes only.
3. The second reason refers to the absence of a legal agreement to secure the provision of affordable housing and financial contributions to offset the likely effects on local infrastructure. A draft Unilateral Undertaking (UU), prepared under section 106 of the Town and Country Planning Act 1990, has now been agreed and the Council is satisfied that those obligations would address the concerns set out in that reason.
4. In his Proof of Evidence, submitted on behalf of the appellant, Mr Tiley challenged the availability of a 5 year forward Housing Land Supply (HLS) as required by paragraph 47 of the National Planning Policy Framework (Framework), partly on the basis that a 20% buffer should be applied because of the Council's past record of delivery against annualised housing targets. A

- number of recent appeal decisions have concluded that there is no record of persistent under delivery and no need to add a 20% buffer in calculating the 5 year HLS.
5. Mr Tiley accepted that the weight of recent decisions is against his position and that a 5% buffer should be applied. He had previously agreed the Objectively Assessed Need (OAN) for Central Bedfordshire as the appropriate figure against which the 5 year HLS should be calculated and that unmet need in Luton Borough should not be taken into account. That was agreed in a Statement of Common Ground (SoCG) (ID3) signed by the parties on 6 April 2018.
  6. The appellant's advocate accepted that the Council can demonstrate a 5 year HLS. However, he argued that importance should be attached to the emerging Local Plan which has a significantly increased housing requirement, including an element of Luton's unmet need which is to be provided for within Central Bedfordshire. As the Council intends to submit the Plan by the end of April, the Inquiry should also consider the future housing requirement and supply position. The Council's advocate objected to that proposition on the grounds that the appellant was seeking to resile from the position agreed in the SoCG.
  7. Having considered submissions on these matters, I ruled that the Inquiry should proceed on the basis of the agreed position in the SoCG. This is that a 5 year HLS has been demonstrated using an OAN of 32,000 homes over a 20 year period from 2015 and a 5% buffer and that the Luton unmet need should not be included in the supply calculation. I stated that my ruling does not mean that the emerging local plan and possible increase in the housing requirement are not material considerations but noted that the SoCG (paragraph 5.4.1) records the parties' agreement that only limited weight should be given to the emerging plan. Although Mr Tiley's Proof was not withdrawn he was not called or cross examined.
  8. I have subsequently been advised that, on 30 April, the Council submitted the emerging Local Plan for examination. Whilst this represents a further step in its progress the Local Plan remains at an early stage of preparation and I do not consider it necessary to seek further comments from the parties as to the weight to be attached to that plan.
  9. A number of recent appeal decisions concerning housing proposals within Central Bedfordshire were referenced at the Inquiry as material to my consideration of whether certain policies within the development plan are out-of-date and the weight to be given to them. A further decision<sup>1</sup> was issued on 1 May relating to a site at Crawley Road in Cranfield (the Crawley Road decision) and the main parties were given an opportunity to submit comments as to what bearing, if any, the findings of Inspector Gregory in that decision have on the matters before me. I have taken the parties' comments on that decision into account.
  10. In submitting their comments on the Crawley Road decision the appellant advised that another decision concerning a site at Astwick Road in Stotfold<sup>2</sup> (the Stotfold decision) was issued on 14 May. In that decision, Inspector Hockenhull also deals with the weight to be given to various development plan policies and whether or not they should be treated as being out-of-date.

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<sup>1</sup> APP/P0240/W/17/3186914

<sup>2</sup> APP/P0240/W/17/3176387

Although material, I do not consider that the Stotfold decision introduces any new arguments as to the approach to be taken in assessing those matters and I see no need to seek the views of the parties on the implications of that decision for the current appeal. As both Inspectors Gregory and Hockenhill note, the inconsistency between various recent decisions may be reflective of the different evidence presented in each case. There is little to be gained by delaying the issue of this decision to enable further discussion as to how those different findings have been arrived at.

## **Main Issues**

11. In light of the matters set out above the main issues are: (a) the suitability of the site for the development proposed in terms of its relationship with the existing settlement of Meppershall and its accessibility to shops and services; and (b) the effect on the character and appearance of the site and its surroundings.

## **Reasons**

### *Policy context*

12. The development plan comprises the Core Strategy and Development Management Policies (2009) (CS), the Site Allocations Development Plan Document (2011) (SADP) and saved policies of the Mid-Bedfordshire Local Plan First Review (2005). All were adopted before the publication of the Framework in 2012. Paragraph 215 of the Framework advises that due weight should be given to policies in such plans according to their degree of consistency with the Framework; the closer the policies are to policies in the Framework, the greater the weight that may be given.
13. The consistency of various development plans policies with the Framework has been considered in a number of recent appeal decisions including those issued since the close of the Inquiry. I have had regard to these in reaching my own conclusions on these matters. The parties agree that the Court of Appeal judgment in *Gladman Developments v Daventry District Council* (ID6) provides assistance on how the assessment of consistency should be undertaken and the matters to be considered in assessing whether a policy should be regarded as being out-of-date for the purposes of paragraph 14 of the Framework.
14. In that judgment, Sales LJ confirms that policies can be out of date even where there is a 5 year HLS and that the mere age of a policy is irrelevant. Paragraph 215 requires an assessment of the consistency of the development plan policy under consideration with all relevant policies in the Framework. Since an important set of policies in the Framework encourage plan-led decision making significant weight should be given to the general public interest in having plan-led decisions even if particular policies in the development plan might be old. He also held that "*the fact that the Council is able to show with the current saved policies in place it has the requisite five year supply tends to show that there is no compelling pressure by reason of unmet housing need which requires those policies to be overridden*".
15. In the Meppershall decision<sup>3</sup> (CD6.26) Inspector Doward found that any inconsistency with the Framework is sufficient to render a policy out-of-date and that CS Policy DM4 is out-of-date on this basis. That approach has not

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<sup>3</sup> APP/P0240/W/17/3175605

been followed by the other Inspectors and was challenged by the parties in the current appeal. The parties agree that what is required is a planning judgement as to the degree to which the policies are consistent with the Framework, as set out in *Gladman v Daventry*.

16. *Gladman v Daventry* is listed as an Inquiry document in the *Crawley Road* decision but there is nothing in that decision letter to indicate how that judgment has informed Inspector Gregory's conclusions on the key policies. Her reference to it in paragraph 21 seems to be in error, with the correct reference seemingly being to the *Cawrey* judgment (Document ID17 in the current appeal). However, all the other Inspectors appear to have considered the degree of consistency with the relevant policies and principles in the Framework in forming their conclusions as to weight and whether or not specific policies are out-of-date.
17. Applying the *Gladman v Daventry* approach to CS Policy DM4, my conclusions are aligned with those of Inspector Asquith in respect of the *Silsoe* appeal<sup>4</sup> (ID19) and Inspector Hockenull in *Stotfold*. I find that Policy DM4 seeks to protect the countryside for its own sake and this blanket protection applies to all areas outside of settlement envelopes irrespective of their landscape value or sensitivity. The policy goes beyond government policy as set out in the fifth bullet of paragraph 17 of the Framework and conflicts with paragraph 113, which states that such protection should be commensurate with the status and quality of the landscape. The judgment in *Cawrey*<sup>5</sup> (ID17) means that the loss of undesignated countryside is capable of being harmful in the planning balance. However, I do not read that judgment as supporting the DM4 approach of protecting the countryside for its own sake. In that respect, I take a different view to that reached by Inspector Gregory but, as she points out in her decision, the different conclusions reached by different Inspectors may reflect how the cases have been put to them.
18. The settlement envelopes were defined as part of a CS which sought to provide for a different and materially smaller housing requirement than the current OAN. Around 71% of the 5 year HLS comprises dwellings on sites outside of the settlement envelopes. It may not have been possible for the CS to draw settlement boundaries in anticipation of what allocations might come forward in the subsequent SADP. However, there has been no subsequent revision of those boundaries and some 42% of dwellings in the housing trajectory on unallocated sites are also outside of settlement envelopes.
19. I do not know the circumstances under which all of those permissions were granted but this does provide strong evidence that the strict application of Policy DM4 would frustrate the Council's ability to achieve a 5 year HLS and that the policy is, therefore, not consistent with paragraph 47 of the Framework. These circumstances are different to those which existed in the *Gladman v Daventry* case in that the 5 year HLS in Central Bedfordshire exists despite rather than because of SADP Policy DM4.
20. I agree with Inspector Gregory that the Framework does not restrict the use of settlement boundary policies. However, the key issue is not the principle of their use but whether or not the Council would be able to demonstrate a 5 year HLS had the current settlement boundaries been strictly adhered to. The clear

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<sup>4</sup> APP/P0240/W/17/3170284

<sup>5</sup> [2016] EWHC 11

evidence is that it would not. Policy DM4 is, therefore, inconsistent with the Framework's policies on housing supply.

21. A significant number of sites outside of the existing settlement boundaries will need to be allocated in the emerging Local Plan to meet future housing needs and these are likely to include land in the Green Belt. This will be necessary to provide a forward land supply to meet the District's OAN and the Luton unmet need and a substantial review of the existing boundaries will be required once those allocations have been finalised. Although the emerging Local Plan can carry only limited weight at this stage the parties agree that the unmet need of Luton is a material consideration of significant weight (SoCG paragraph 3.3)
22. Taking all these considerations into account, I find that Policy DM4 is sufficiently inconsistent with policies in the Framework to render it out-of-date for the purposes of paragraph 14. In view of that degree of inconsistency, I afford only limited weight to the policy. This finding is in line with those of Inspectors Asquith and Hockenhull and of Inspector Clark in the Cranfield Decision<sup>6</sup> (ID1). Inspector Clark does not specify what weight the policy should attract but his comment that the moderate weight ascribed by previous Inspectors "appears generous" indicates that he gave only limited weight to Policy DM4. He found that the policy is not out-of-date but his reasoning for reaching this judgement is not fully set out. Inspector Gregory does not set out any finding as to whether DM4 is out-of-date but concludes that it should be given moderate weight.
23. Inspector Hayden's finding in Clophill<sup>7</sup> (CD6.20) that Policy DM4 is not out-of-date appears to have been made on the understanding that the 5 year supply was being met with all the relevant development plan policies in place. The strong evidence before me leads me to a different conclusion. Inspectors Parker in Potton<sup>8</sup> (CD6.21) and Doward in the Meppershall decision<sup>9</sup> (CD6.26) both found inconsistency with the Framework and attached moderate weight to the policy. Inspector Parker did not find the policy to be out-of-date but did not need to reach a conclusion on this question given his finding that that proposal accorded with the development plan as a whole. The weight to be given to Policy DM4 is a matter of planning judgement and the evidence before me supports my finding that only limited weight should be attached to it.
24. Policy CS5 is not cited in the decision notice and no conflict with it is alleged. The fact that the housing targets in that policy have been overtaken by a more recent assessment of need does not render the policy out-of-date. The approach of directing most new development to the largest settlements within the settlement hierarchy is in line with the core planning principles in paragraph 17 of the Framework and I find no reason to conclude that CS5 should be regarded as being out-of-date.
25. Policy CS16 recognises a hierarchy of landscapes of differing value in line with paragraphs 109 and 113 of the Framework. Its cross reference to the Central Bedfordshire Landscape Character Assessment (LCA) provides a mechanism by which the level of protection provided can be made commensurate with the importance of different landscapes within the district. In line with other

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<sup>6</sup> APP/P0240/W/17/3181269

<sup>7</sup> APP/P0420/W/16/3152707

<sup>8</sup> APP/P0240/W/17/3176444

<sup>9</sup> APP/P0240/W/17/3175605

Inspectors, I find that CS16 is consistent with the Framework and afford it full weight. I also find that DM14 complies with the Framework and reject the appellant's assertion that only moderate weight should be attached to it.

*Suitability of the site*

26. Local objectors question the ability of the village to absorb the scale of development proposed but it is no part of the Council's reason for refusal that Meppershall is an unsuitable location for housing development in principle. It is designated as a large village in the adopted CS and the SADP included site allocation HA25 which is being developed to provide 78 dwellings. The emerging Local Plan proposes to re-designate Meppershall as a small village although the rationale for that proposal is far from clear. Mr Hughes could not point to any material change in the level of services and facilities available since the CS was adopted that would support that change. In any event, the parties agree that only limited weight should be attached to the emerging Plan.
27. The Settlement Capacity Study (CD9.04) takes account of existing services and facilities in the village and in nearby settlements, recreational and community facilities and clubs, transport and other infrastructure, landscape and other factors. The Study ascribes medium capacity to the settlement and concludes that development of a sufficient scale could support improved service and facility provision and deliver a range of housing for the local community. 'Medium capacity' indicates an ability to accommodate between 50 and 500 new homes. There is no information in the evidence base to indicate where within that range Meppershall is considered to sit. Neither does the evidence base provide any explanation as to why only one of the sites that passed through the Site Assessment process (CD9.05) was carried forward into the proposed allocations in the pre-submission draft Local Plan.
28. From the observations I made on my visits I am satisfied that future residents of the development would be able to access the village shop, public house, bakery, primary school and the new village hall and playing fields on foot or by cycle. A development of the scale proposed would result in increased patronage and use of these facilities and help support both their long-term viability and the vitality of the village.
29. The Local Education Authority is satisfied that the number of children of primary school age likely to be generated could be accommodated at Meppershall C of E Academy, subject to the payment of the educational contributions included in the UU. The appellant's evidence (ID4) that there are spare places at the school and that approximately half of its pupils do not live within its catchment area and are travelling from outside the village is unchallenged. The upper and high schools are located in other nearby settlements but there are bus services to those schools.
30. A range of higher order services and facilities including a supermarket, other shops and primary health care are available in Shefford within about 3 kilometres of the site. There are local concerns about waiting times for appointment at Shefford surgery and I accept that this might cause frustration. The Practice Manager's letter (ID11) indicates that the problems are due to the difficulties of GP recruitment rather than physical constraints at the surgery premises. The Practice is not unique in experiencing these pressures and the letter indicates that matters are starting to improve. No response to the application consultation was received from the Clinical Commissioning Group

and I have no other evidence that local health services would not be able to absorb the scale of development proposed.

31. The Transport Assessment's (CD1.08) assertion that the Tesco Express and a significant part of Shefford is within reasonable walking distance is, in my view, misplaced. At the time of my visit the northern end of the informal path between Meppershall and the A507 was under water and other sections had rain water running across them. Local residents' evidence is that such conditions are not uncommon. The route is unsuitable for wheelchairs or those with a pram or pushchair and its poor condition, together with the lack of natural surveillance from passing traffic on Shefford Road along much of the path, would discourage many people from using it.
32. The configuration of the junction and the speeds with which vehicles enter and leave the roundabout are such that crossing the A507 is an intimidating experience. Tesco Express is part of a roadside services facility that is not designed for pedestrian access. The only potential route from Ivel Road is via a steep and narrow path, including one step, which is partially obstructed by a lighting column. Very few people would choose to walk from the site to the Tesco Express or into the centre of Shefford.
33. Although bus services are relatively infrequent these do provide opportunities for access to shops and other facilities in Shefford by sustainable means but most trips are likely to be made by car. That reduces the sustainability of the location to some degree but the distances involved are relatively small. Paragraph 29 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Both the adopted spatial strategy and site assessment process for allocations in the emerging Local Plan take account of accessibility to services and facilities in other nearby settlements and the Council proposes to allocate land for additional housing in Meppershall in that emerging Plan.
34. A development of 150 dwellings would result in a material increase in the size of the existing village of around 700 homes. However, other than in respect of the effect on character and appearance, the Council has not identified any harm that would flow from that increase. Neither has it pointed to any resultant conflict with the development plan. The key consideration is whether the proposal would have an unacceptable impact on local services and infrastructure and there is no substantive evidence that this would be the outcome. Accordingly, I find no reason to conclude that the site would be unsuitable for the form or level of development proposed and find no conflict with the development plan in this regard.

#### *Character and appearance*

35. Meppershall lies within Landscape Character Area 8D (Upper Gravenhurst-Meppershall Clay Hills) as defined in the LCA. Policy DM14 requires an assessment of the impact of development proposals on the landscape and states that the LCA will be used to determine the sensitivity of the landscape and the likely impact. CS15 seeks to resist adverse impacts on highly sensitive landscapes and to require development to enhance landscapes of lesser quality in accordance with the LCA. In its latest version, the LCA (CD12.03) does not set out an overall sensitivity judgement but does identify the key features and attributes that contribute to landscape character and sense of place and those

which could be vulnerable to change. It does, therefore, provide a clear framework within which those policies should be applied.

36. Character Area 8D is identified as having a number of key characteristics including: a medium scale landscape in predominantly arable use; settlement in the form of medium scale villages, typically located on the hill tops; hedges and trees on field boundaries which create a strong landscape pattern with a wooded context in places; and settlements with a variable character and mix of building styles and materials. Elsewhere, the LCA states that settlement consists of substantial villages and that some of these have expanded along roads limiting views and that the character is rural in places but becomes interrupted by suburban influences such as linear settlement.
37. The LCA notes that expansion of the originally dispersed settlement in Meppershall has given it a linear form but does not identify this as one of the key positive features or strategic sensitivities of the landscape. These include the rural character of the landscape, particularly on the largely unsettled slopes of the hills, which is vulnerable to urban influence from expanding settlement edges. Development guidelines include those of avoiding development which would detract from the open character of valley sides, avoiding development spilling down the hill slopes, and preventing ribbon development that could lead to settlements merging.
38. Given the existing built form of Meppershall there is no risk that the proposal would lead to the village merging with any other settlement. The proposed areas of built development indicated on the Development Framework Plan would be some distance from the unsettled hill slopes and, in this respect, the proposal can be distinguished from the HA25 site where built development already extends to the edge of the plateau (Mr Jackson's Appendix 4). Compared to that development, which occupies a prominent position in the landscape and includes dwellings of 2.5 storeys, the appeal proposal would be better integrated with existing built form. Only limited views of some of the buildings would be available at some distance to the north west, from where these would appear on the skyline. The proposal would be in keeping with the LCA development guidelines and would not have a harmful effect on landscape character within the wider Character Area 8D.
39. The appeal site is not a valued landscape for the purposes of paragraph 109 of the Framework and has no landscape designation. I accept the assessment in the Landscape and Visual Appraisal (LVIA) (CD1.07) that the site's main landscape features are its boundary hedges and that Nunswood adds to the site's character. Only about 10 metres (m) of hedge would be removed for the site access and visibility splays. The remainder of the hedge along the frontage of the site and the adjoining 'unmanaged land' would remain.
40. Hedges to other boundaries would be retained and strengthened where necessary and there would be substantial, native woodland and tree planting in the proposed buffer to Nunswood. This would respond positively to the LCA guideline of considering opportunities for woodland creation. Both this and other landscaping within the site would follow the management guidelines of restoring and managing hedgerows and assessing the potential for habitat creation and green infrastructure.
41. The arable field and paddock areas are undistinguished and of only a medium quality in landscape terms. Their loss and the loss of the building and garden

to No. 59 would have only a moderate adverse effect on the local landscape. The development of up to 150 houses on that open land would, inevitably, result in a significant change in the character of the appeal site. Layout and design are not before me but the form of development envisaged would not be very different from that being constructed on the HA25 site. There is considerable degree of variation in the design and appearance of the existing dwellings in this part of the village and the appeal proposal would not be out of keeping with the site's context and setting.

42. The historic mapping supports the assessment, at paragraph 3.5 of the LVIA, that Meppershall retained a linear pattern of development along the High Street until the second half of the 20<sup>th</sup> Century. Later development since the 1960s has led to a substantial extension along Fildyke Road (forming a third arm to that linear pattern) Hoo Road, Shefford Road and between Shefford Road and Nunswood. There has also been a significant level of in-depth development behind the frontages to High Street, Fildyke Road and Hoo Road. The area focused on the High Street/ Shefford Road/ Fildyke Road junction may serve as a core area in terms of settlement pattern but this role derives mainly from that more recent in-depth development. Rather than forming part of that existing core, the HA25 site development represents a significant expansion of in-depth development extending a considerable distance from Shefford Road.
43. North of Orchard Close, ribbon development on the south east side of Shefford Road allows views of open fields to the rear and gives this section of the road a more linear feel. On the opposite side, the built frontage has recently been extended by the construction of the new chalet bungalows. The frontage to No. 59 is domestic in appearance and a further ribbon of development extends north to the care home access road. Two new houses have resulted in a new pocket of in-depth development at that corner. The care home is of substantial scale compared to other nearby buildings and itself represents a considerable extension of built form back from Shefford Road.
44. The unmanaged land forms a gap in the built frontage to Shefford Road but I do not agree that one gains a sense of leaving the village on reaching this point. The roadside hedge screens views of that land and of much of the appeal site although the views over the top of the hedge extend to the hedgerow on the south west boundary of the appeal site and Nunswood. For anyone walking north on the pavement, the long elevation of the care home is prominent in the available view. When walking south, one is aware of the existing properties on Shefford Road and of the new houses at the western edge of the HA25 site.
45. The appeal site is physically separated from the HA25 site but is well contained by existing and proposed built form. With the green infrastructure and open space as proposed, the proposal would fit comfortably within this existing setting. In that context the proposal would not extend the visual influence of the settlement beyond that which already exists. It would represent a significant extension of in-depth development on the north western side of Shefford Road. However, the linear character of this part of the road has already been reduced by the care home and the HA25 development and any additional harm resulting from the appeal proposal would be limited.
46. Linear character is not identified in the LCA as one of the positive features or strategic sensitivities of the landscape and I do not consider that the proposal

would cause significant harm to the character and appearance of this part of Meppershall. Inspector Doward came to a different conclusion in relation to the proposal at 100 High Street. When moving along that section of High Street one has no perception of built development or open land to the rear of the frontage properties and has a stronger sense of the retained linear form of the original village. That Inspector's conclusions are specific to an edge-of-settlement location at the southern end of the village and seem to have been informed by assessing the effect from a number of viewpoints around the site. There appears to be no reference to the LCA in that decision.

47. Given the extent of built form fronting and visible from it, the section of Shefford Road to the front of the appeal site does not have a rural character and I do not agree that there is a strong sense of the countryside extending into the village at this point. The gap in built frontage would remain and the role of the unmanaged land as a green edge to the road would be strengthened by the open space and landscaping associated with the proposed SuDS scheme. Setting the development behind open land and landscaping would not be out of character in this part of the village given that this is what is being done, albeit in a different form, in respect of the HA25 site development.
48. The boundary hedge to the unmanaged land would be unaffected and most of the hedge to the appeal site frontage would be retained and strengthened. Views to Nunswood would be interrupted by buildings within the site but would not be lost altogether. Views of the development from residential properties would be limited to immediately surrounding dwellings to the north and east and would mainly be available only from upper floor windows. As it has living accommodation on the first floor, the care home could potentially be more sensitive to the visual effects of the proposal than other residential properties. It is also possible that residents of the care home may spend a greater part of the day in their rooms or on the balcony at the rear of the building. However, the nearest dwellings would be beyond a landscape/ green infrastructure buffer of around 30-35m in depth. Given that mitigation, the proposal would not have a significant effect on the outlook from the care home.
49. From Public Footpath (FP) 5, which forms part of the John Bunyan Trail, only very limited views of the development would be available and these would be filtered by Nunswood, the existing boundary hedge and buffer planting within the site. Some areas of roof may be visible but the visual effect of the buildings would be reduced due to the fall in site levels from the north west corner. The effect on users of FP5 would be limited to short stretches of the route, resulting in a minor/moderate adverse effect, and the effect on users of FP4 would be negligible. Restricting the development to 2 storeys with single storey dwellings only at its north western edge as proposed would also help to limit its visual and landscape effects.
50. There would be a further expansion of in-depth development but this would not amount to significant harm to the character and appearance of the site or the village as a whole. There would be no material harm to the landscape of the site and its surroundings or to the character of the wider Landscape Character Area. There would be no significant visual effects. Accordingly, the proposal does not conflict with Policy CS16, which states that the Council will resist development that has an adverse effect on important landscape features or highly sensitive landscapes, or with SADP Policy DM14 which requires that development proposals be assessed against the impact that they would have

on the landscape. The Development Framework Plan illustrates the potential for a development of appropriate scale and design within the site's context and which respects local character in compliance with Policy DM3.

### **Other matters**

51. Natural England's Agricultural Land Classification Mapping may show that the area includes land of good to moderate quality but this mapping is not site specific. The assessment at Mr Ryder's Appendix 19 has been informed by a detailed soil resource and agricultural quality survey of the appeal site. This concludes that 90% of the land which is currently in agricultural use is sub-grade 3b. The proposal would not, therefore, result in the loss of any land within the best and most versatile category.
52. I saw on my site visit that the visibility splays can be achieved with the removal of only a small section of hedge either side of the existing picket fence to No. 59. The standard of splay necessary for this access junction has been informed by a speed survey which was accepted by the Council's Principal Highways Officer. The Officer considers the access to be adequate to meet the scale of development proposed and that there would be no significant adverse effects on highway safety or on the operation of the local highway network. There is no substantive evidence to demonstrate that the officer's conclusions are wrong.

### **The Planning Balance**

53. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that appeals be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. I find that the appeal site is not an unsuitable location for the proposed development and that there is no conflict with the development plan in that regard. I also find that the proposal would not result in any conflict with Core Strategy Policy CS16 or SADP Policies DM3 or DM14. The proposal would result in a significant development outside of the settlement envelope, in an area designated as open countryside and would, therefore, conflict with Policy DM4. For the reasons already set out I attach only limited weight to that conflict.
54. As I have found that Policy DM4 is out-of-date the 'tilted balance' under paragraph 14 of the Framework is engaged. This states that, where relevant policies are out-of-date, planning permission should be granted unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or
  - specific policies in the Framework indicate that development should be restricted.
55. The site does not fall within any of the areas listed in Footnote 9 as examples of policy designations that might indicate that development should be restricted and no other such limitations have been identified. Hence, the proposal falls to be considered under the first limb of this part of paragraph 14.
56. The benefits include the provision of additional market housing which is agreed to be of significant positive weight because it would help meet future needs in Central Bedfordshire and the significant unmet need in Luton. The proposal

would provide a range and choice of housing including bungalows and up to 51 affordable homes. The rate of this provision, at 35%, complies with the Council's policy requirements. However, when considered in the context of the considerable shortfall in affordable housing as set out in the appellant's evidence, this contribution should be afforded significant weight.

57. The economic benefits, in terms of construction investment and employment and the potential for the future residents of the development to support local shops and services in the area are not unique to this proposal. Nevertheless, they are tangible benefits and I give them moderate weight. There would also be potential for landscape and ecological enhancements but I attach only limited weight to these.
58. The proposal would result in the loss of some open land and a significant expansion of built development in the open countryside. However, in view of my conclusions as to its landscape and visual effects, I find that these adverse impacts do not significantly and demonstrably outweigh the benefits listed above and that the tilted balance in favour of a grant of planning permission therefore applies. This is a material consideration of sufficient weight to justify a grant of planning permission notwithstanding the conflict with Policy DM4.

### **Planning Obligations and Conditions**

59. The obligations in the draft UU would secure the 35% affordable housing provision, the implementation and future management of the SuDS, and the laying out and future management of the open space to be provided within the site. It would also require financial contributions for improvements to existing play areas in the village, to offset increased demand on early years and educational facilities, and for waste recycling and collection bins on the appeal site. The Council has confirmed that these obligations comply with the Community Infrastructure Levy Regulations 2010 (as amended). I am satisfied that they are necessary to render the proposal policy compliant and acceptable in planning terms and are directly related to the development and proportionate in scale. They meet the tests in paragraph 204 of the Framework and I have taken them into account in my determination of the appeal.
60. I have amended the draft schedule of conditions in light of the discussions at the Inquiry. Conditions that tie the permission to the approved plans and specify various matters to be included in the reserved matters application(s) have been attached to ensure an appropriate quality of development. So that the visual and landscape effects are acceptable, I have attached conditions limiting the development to 145 dwellings and to 2 storey height and requiring both that finished floor and site levels be approved and that buildings adjacent to the north western boundary should be limited to a single storey. A condition is needed requiring the submission and approval of a surface water drainage scheme and that this be implemented but I consider that foul water drainage can be dealt with by other means. Conditions requiring the approval of details of the site access and that the requisite visibility splays be provided before other development takes place are needed in the interests of highway safety.
61. A condition requiring the submission and approval of a Construction Management Plan is needed to minimise disturbance to nearby residents and the obstruction of the highway. So that residents have a genuine choice of travel options a Travel Plan needs to be submitted and approved and I have

attached a condition requiring those actions. A condition setting out steps to be taken if any contamination is found during construction works is needed to ensure a satisfactory standard of development and the safety of construction workers. In the interests of sustainable use of resources I have attached a condition relating to water efficiency. I have not adopted the suggested condition regarding energy efficiency as this is adequately dealt with by the Building Regulations.

62. The potential archaeological interest requires a condition relating to a scheme of archaeological investigations and the recording/ recovery of items of interest. A condition requiring the approval of an Ecological Enhancement Strategy is needed to ensure that biodiversity is maintained and enhanced. A condition is needed to require a scheme for any external lighting proposed to help avoid adverse effects on bats and other wildlife. To provide safe and convenient access for pedestrians, conditions have been attached requiring the construction of a footway along the site's frontage to Shefford Road and a pedestrian link from the site to Shefford Road.
63. Finally, to ensure that the necessary infrastructure to serve the development is provided, conditions have been attached relating to the provision of fire hydrants and requiring the completion of a signed and executed legal undertaking in respect of the proposed planning obligations. Having regard to the advice in the Planning Practice Guidance, I am satisfied that the current circumstances as to the availability of one of the signatories to the UU warrants the use of a planning condition to secure that outcome.

### **Conclusion**

64. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should succeed.

*Paul Singleton*

INSPECTOR

## **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the Location Plan Ref: CSA/3086/107B and access plan Ref: 4746/50/01A.
- 5) The reserved matters application(s) shall include the following:
  - i) Details of all internal road layouts including sight lines and visibility splays at all internal road junctions; details of turning areas to facilitate the manoeuvring of 11.5-metre long vehicles; the location of all bin and recycling storage and collection points; the location and specification of car parking and cycling storage facilities.
  - ii) Details of the materials to be used for the external construction of the buildings hereby permitted.
  - iii) Details including heights and specifications of any hedges, fences, walls or other means of enclosure to be constructed as part of the development hereby permitted.
- 6) The development hereby permitted shall comprise a maximum of 145 dwelling units and no dwelling shall exceed 2 storeys in height.
- 7) No development shall take place until details of the finished floor and site levels for each building, hard surfaced and landscaped area have been submitted to and approved in writing by the local planning authority. The proposed levels shall be shown in relation to a fixed, existing datum point. The development shall thereafter be carried out strictly in accordance with the approved details.
- 8) Any building erected adjacent to the north western boundary of the development area as shown on the illustrative Development Framework Plan Ref: CSA/3086/101 Rev I shall not exceed one storey in height.
- 9) No development shall take place until a scheme for surface water disposal has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its provision and details of future management and maintenance. The drainage facilities shall be completed in accordance with the approved details before any dwelling hereby permitted is first occupied. The facilities shall thereafter be retained and maintained in accordance with the approved scheme.
- 10) Notwithstanding condition 4, no development shall take place until a detailed scheme for the construction of the site access and related highways works has been submitted to and approved in writing by the local planning authority. The scheme shall detail the new access junction and provision of shared footpaths / cycle connections onto Shefford Road

in accordance with the details on plan Ref: 4746/50/01A. The approved scheme shall include phasing and construction details and shall be implemented in full compliance with the approved details and timetable.

- 11) No other development shall take place until visibility splays have been provided at the junction of the proposed estate road with Shefford Road in accordance with the details shown on Plan Ref: 4746/50/01A. The splays shall thereafter be maintained free of any obstruction to visibility.
- 12) No development including demolition and site clearance works shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of:
  - i) Construction activities and timing.
  - ii) Plant and equipment, including loading and unloading.
  - iii) Construction traffic routes and points of access/egress to be used by construction vehicles.
  - iv) On site provision for worker and contractor vehicle parking.
  - v) Details of site compounds, offices and areas to be used for the storage of materials.
  - vi) Details of on-site wheel cleaning facilities.
  - vii) Dust mitigation and suppression measures.
  - viii) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season).
  - ix) Protection for all retained trees and landscaping.
  - x) Contact details for site managers and details of management lines of reporting to be updated as different phases come forward.
  - xi) Details for the monitoring and review of the construction process including traffic management (to include a review process of the CEMP during development).

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

- 13) No dwelling hereby permitted shall be occupied until a residential travel plan has been submitted to and approved in writing by the local planning authority. The travel plan shall include details of:
  - i) Predicted travel to and from the site and targets to reduce car use.
  - ii) Details of existing and proposed transport links, to include links to pedestrian, cycle and public transport networks.
  - iii) Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport.
  - iv) Timetable for implementation of measures designed to promote travel choice.
  - v) Plans for annual monitoring and review for a period of 5 years at which time the obligation will be reviewed by the local planning authority.
  - vi) Details of marketing and publicity for sustainable modes of transport to include site-specific welcome packs. Welcome packs to include walking, cycling, public transport and rights of way information.

vii) Details of the appointment of a travel plan co-ordinator.

The travel plan shall be implemented in accordance with the approved details and timetable.

- 14) If, during development, contamination not previously identified is found to be present, no further development shall be carried out on that part of the site until an investigation strategy and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination will be dealt with has been submitted to and approved in writing by the local planning authority. No part of the development shall be occupied until the measures identified in the approved remediation strategy and verification plan have been completed and a verification report demonstrating completion of the approved remediation works and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority.
- 15) No development shall commence until a scheme of measures capable of achieving a water efficiency standard of 110 litres per person per day (105 litres for internal use plus 5 litres for external use) has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.
- 16) No development including demolition and site clearance shall take place until a written scheme of archaeological investigation and resource management has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and shall adopt a staged approach to that assessment and shall include:
- i) the programme and methodology of site investigation and recording.
  - ii) the programme for post investigation assessment.
  - iii) the provision to be made for analysis of the site investigation and recording.
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation.
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation.
  - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- The scheme shall be implemented in accordance with the approved details and programme.
- 17) No development shall take place until an Ecological Enhancement Strategy (EES) has been submitted to and approved in writing by the local planning authority. The EES shall include the following:
- i) Purpose and conservation objectives for the proposed works informed by a review of the ecological assessment.
  - ii) Review of site potential and constraints.
  - iii) Detailed design(s) and/or working method(s) to achieve stated objectives.
  - iv) Extent and location/area of proposed works on appropriate scale plans.

- v) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- vi) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- vii) Persons responsible for implementing the works.
- viii) Details of initial aftercare and long-term maintenance.

The EES shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 18) No dwelling hereby permitted shall be occupied unless and until an external lighting strategy has been submitted to and approved in writing by the local planning authority. The strategy shall be designed to minimise the potential adverse effects of external lighting on the biodiversity of the site and its immediate surroundings and shall:
- i) Identify those areas/features/ routes that are particularly sensitive to disturbance from light sources; and
  - ii) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so as to demonstrate that the lighting will not disturb or prevent species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall, thereafter, be maintained in accordance with the strategy. No external lighting shall be installed unless it is in accordance with the approved strategy.

- 19) No dwelling hereby permitted shall be occupied until a footway along the full length of the site frontage to Shefford Road has been constructed at a minimum width of 2.0m and in accordance with details of a scheme that has been submitted to and approved in writing by the local planning authority.
- 20) No development shall take place until a scheme for the provision of a new footpath from the site to Shefford Road in the broad location shown on Development Framework Plan Ref: CSA/3086/101 Rev I has been submitted and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved details prior to the occupation of any dwellings and shall thereafter be retained exclusively as a pedestrian route.
- 21) No development shall take place until a scheme for the provision of fire hydrants at the development has been submitted to and approved in writing by the local planning authority. Prior to the first occupation of any dwelling hereby permitted the fire hydrants serving that dwelling shall have been installed as approved. The fire hydrants shall, thereafter, be retained for the life of the development.
- 22) No development shall take place until a completed and executed Planning Obligation, substantially in the form of the draft Unilateral Undertaking submitted to the Inquiry as ID2, has been submitted to the local planning authority.

*(End of Conditions Schedule)*

## **APPEARANCES**

### FOR THE APPELLANT

Martin Carter, of Counsel

instructed by Gladman Developments Ltd

He called

Timothy Jackson BA (Hons) DipLA CMLI

Director FPCR Environment and Design Ltd

Liam Ryder MPLAN MRTPI

Senior Planner, Gladman Developments Ltd

### FOR THE COUNCIL

Alexander Booth QC

instructed by the Solicitor to Central Bedfordshire Council

He called

Phillip Hughes BA (Hons) MRTPI DipMan

MCMi

Principal, PHD Chartered Town Planners

### INTERESTED PERSONS

Andrew Pain

Meppershall Action Group (MAG)

Paul Smith

Member of Meppershall Parish Council

Roger Smith

Member of Meppershall Parish Council

Dr S Chappell

Local Resident and MAG member

Anthony Magee

Local Resident and MAG member

Terry Smyth

Local Resident

Roger Crawford<sup>10</sup>

Local Resident and MAG member

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

ID1 Appeal Decision Ref: APP/P0240/W/17/3181269

ID2 Draft Unilateral Undertaking

ID3 Signed Statement of Common Ground

ID4 Appellants' Briefing Note re Capacity at Meppershall Primary School

ID5 Natural England Guidance Note re Ancient Woodland

ID6 CA Judgment in Gladman Developments Ltd and Daventry District Council<sup>11</sup>

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<sup>10</sup> Mr Crawford's statement was read out on his behalf by Mr P Gilbert

<sup>11</sup> [EWCA] 2016 Civ 1146

- ID7 Extracts from Silsoe Parish Green Infrastructure Plan 2010
- ID8 Note of housing completions 2017-2018 (unratified)
- ID9 Updated Tables to pages 22 & 24 of Mr Hughes' Proof of Evidence
- ID10 Aerial photo showing Mr Hughes' identification of the Village core and ribbons
- ID11 Bundle of statements and information submitted by local residents
- ID12 Additional information submitted by MAG
- ID13 Dr Chappell's statement to the Inquiry
- ID14 Schedule of draft conditions with appellant's comments
- ID15 Letter from Mr King of 59 Shefford Road re site visit
- ID16 Mr Smyth's statement to the Inquiry
- ID17 HC Judgment in Cawrey, SSCLG and Hinckley and Bosworth BC<sup>12</sup>
- ID18 Extract from PPG re obligation required by planning condition
- ID19 Appeal Decision Ref: APP/P0240/W/17/3170248
- ID20 Plan marked with agreed route for accompanied site visit
- ID21 Main parties representations to Silsoe appeal Inspector regarding the Meppershall appeal decision

### **DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY**

APP/P0240/W/17/3186914 – Appeal Decision re Land situated between Crawley Road and Bourne End Road, Cranfield MK43 0AB

APP/P0240/W/17/3176387 – Appeal Decision re Land west of Astwick Road, Stotfold, SG5 4BG

Council Comments on appeal decision APP/P0240/W/17/3186914

Appellant's comments on appeal decision APP/P0240/W/17/3186914

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<sup>12</sup> [2016] EWHC 1198 Admin