The Planning Inspectorate

Appeal Decision

Hearing held on 10 and 11 January 2017
Site visit made on 11 January 2017

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/P0240/W/16/3154829
Land off Hitchin Lane, Clifton, Bedfordshire SG17 5RS

- 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/15/02733/OUT, dated 21 July 2015, was refused by notice dated 27 May 2016.
- The development proposed is described as 'Outline planning permission for up to 97 residential dwellings (including up to 35% affordable housing), demolition of existing outbuildings, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Hitchin Lane and New Road and associated ancillary works. All matters to be reserved with the exception of the main site accesses'.

Decision

1. The appeal is allowed and outline planning permission is granted for up to 97 residential dwellings (including up to 35% affordable housing), demolition of existing outbuildings, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Hitchin Lane and New Road and associated ancillary works. All matters to be reserved with the exception of the main site accesses' at Land off Hitchin Lane, Clifton, Bedfordshire SG17 5RS in accordance with the terms of the application, Ref CB/15/02733/OUT, dated 21 July 2015, subject to the 20 conditions set out in the attached schedule.

Preliminary matters

2. The planning application to which the appeal relates was submitted in outline form with all matters reserved except for access.

3. A Unilateral Undertaking was submitted under section 106 of the Town and Country Planning Act 1990. I deal with the contents of this below.

4. The Hearing sat for 2 days. I held an accompanied site visit on 11 January 2017. I also conducted unaccompanied visits on the 9 and 10 January 2017.

5. A Statement of Common Ground was submitted which sets out the policy context along with matters of agreement and those in dispute.

Main issues

6. The main issues in the appeal are:

   - Whether the proposed development would provide a deliverable contribution towards the identified housing needs of Central Bedfordshire; and
   - the effect of the proposal on the character and appearance of the area.

Reasons

Housing land supply and planning policy

7. Paragraph 47 of the National Planning Policy Framework (the Framework) seeks to boost significantly the supply of housing. It identifies that Councils should ensure that their local plans meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide a 5 year supply of land for housing against their housing requirements, with an additional buffer of either 5% or 20% (moved forward from later in the plan period), to ensure choice and competition in the market for land.

8. It was common ground at the Hearing that the Council was unable to demonstrate the provision of a 5 year supply of land for housing, measured against their housing requirements. However, the extent of the shortfall was disputed by the parties at the Hearing. The Council stated that they were able to demonstrate 4.89 years of deliverable land for housing supply, although they accepted that a recent appeal decision[1] had determined that the Council could only demonstrate 4.66 years. The appellant argued that the figure should be 4.54 years based on their assessment of housing delivery trajectory. However, even at the Council's more optimistic calculation of 4.89 years it was clear that the shortfall in housing supply (211 dwellings) is significant.

9. Policy DM4 of the Central Bedfordshire Core Strategy and Development Plan Policies DPD (November 2009) (CSDPD), seeks to restrict development in the countryside and forms part of the Council's strategic approach to the distribution and location of housing. It is, therefore, a relevant policy for the supply of housing and given there is no 5 year supply it cannot be regarded as being up to date. In these circumstances, paragraph 14 of the Framework states that, the presumption in favour of sustainable development means that planning permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or unless specific Framework policies indicate development should be restricted.

10. The provision of up to 95 dwellings, of which would include 35% affordable housing, would make a significant contribution to the supply of housing. This weighs significantly in favour of the proposal, particularly given the absence of a 5 year supply of land for housing.

[1] APP/P0240/W/16/3154220 – Land off Greenfield Road, Flitton MK45 5DR

Housing delivery

11. The Council have argued that to ensure the delivery of the proposed homes to meet the Council's housing requirements the appellant should include a clause within their Unilateral Undertaking that obligates the developer to deliver the complete development within 5 years (95 dwellings). However, based on all of the evidence before me and the representations at the Hearing, it was not adequately demonstrated that there was a substantive local or national policy justification for such a clause. Notwithstanding this, the appellant has voluntarily proposed reduced timescales for the submission of a reserved matters application and the commencement of the development as a means of promoting early delivery of the scheme. Therefore, there is no substantive evidence before me that demonstrates that the proposed homes would not be achievable or have a realistic prospect of being delivered on the site within five years.

12. Having reached the conclusions above, the proposed development would provide a deliverable contribution towards the identified housing needs in Central Bedfordshire. Consequently, the absence of such a clause would not conflict with Policy CS6 of the CSDPD that seeks amongst other things to ensure that the Council has a 5 year supply of land for housing. Moreover, there is no conflict with the Framework.

Character and appearance

13. The appeal site is located at the southern edge of the village of Clifton, outside but adjoining the development boundary of the village on Hitchin Lane. The appellant has proposed two accesses to the site, one from Hitchin Lane and the second from New Road. The site comprises of two main parcels of land divided into an eastern and a western section, by an established hedgerow. The land consists of semi-improved grassland, areas of scrub and a number of derelict agricultural structures. Local residents at the Hearing explained that the site had been traditionally used as smallholdings; that are different in character to the more open arable land that surrounds the site. The topography within the site itself generally slopes down from west to the east and the character of the site is generally consistent with the local landscape character of the 'Upper Ivel Clay Valley'.

14. The site is largely enclosed by mature trees and housing to the north and Hitchin Lane and associated dwellings to the east, although the most southern section of this side is open towards Hitchin Lane and the adjacent field. A formal line of mature trees (Conifers), with a parallel hedgerow form the southern boundary. The boundary to west (New Road) is a hedgerow interspersed with dwellings. Additionally, there is a mature hedgerow running through the centre of the site in a north-south orientation as well as post and rail fence in various locations across the site. Timber garden fences make up the majority of the boundary to the rear of the properties of Hitchin Lane and New Road. It was common ground that the appeal site has no landscape designation and has no characteristics that would identify the site as a valued landscape (paragraph 109 of the Framework).

15. I confirmed by way of my site visits that the appeal site is visible from both New Road and Hitchin Lane, with limited kinetic views from the A507. It is

clear that the appeal site does have a local aesthetic value, and this has been evidenced by the representations both in writing and during the Hearing from local residents. It is common ground that the proposed development would have an effect on the open character of the appeal site. Moreover, I accept that the introduction of the built development would change the outlook for local residents particularly from Hitchin Lane and New Road. Ultimately, the effect of the proposal would be to increase the presence of built development in the countryside.

16. However, whilst the new development would be visible, the views would be largely contained by the existing residential properties on Hitchin Lane and the existing established hedgerows, particularly those to the south of the site and on New Road which are punctuated by development. Furthermore, the establishment of landscaping, including the maintenance and enhancement of existing landscape features (hedges) would materially increase the visual containment of the site. In reaching this conclusion I have taken into account the potential effect of the proposed access onto New Road and find that it would have a minimal impact on the overall visual containment of the site. Therefore, given the context of the appeal site, the proposed development would be likely over time to be viewed as a natural extension of Clifton, in relation to its surroundings and topography. Consequently, the existing and proposed landscaping would partially mitigate the harm in relation to the localised change of character and outlook.

17. It was argued that the proposed development would be isolated and that a pocket of open land would be left between the site and the core of the village. This in turn would result in harm to the transitional rural character at the edge of the village, particularly when leaving the village along New Road. However, the site is located within reasonable walking distance to the village centre and the location of the proposed development would not be inconsistent with the prevailing character of the village or the wider area. In particular the Upper Ivel Clay Valley where the dense settlement of medium and large scale villages is often expanded along roads with later development constructed from mixed materials. Based on the evidence before me and my observations this is consistent with the expansion of Clifton, including the retention of residual pockets of green space as the village has evolved over time. Moreover, I accept that there would be a limited change to the transitional character of the village edge. However, the effects of this could be reasonably mitigated during the reserved matters stage in particular the retention and improvement of the existing hedgerows particularly at the proposed new access onto New Road along with the other mature hedgerows.

18. Having reached the above conclusions the proposed development would result in moderate harm to the character and appearance of the area. The proposal would therefore conflict with Policies CS14, CS16, DM3, DM4 and DM14 of the CSDPD. These seek amongst other things to ensure that new development does not harm the countryside and its setting. In reaching this conclusion I took into account the aspirations of the Clifton Green Infrastructure Plan.

Planning obligations

19. At the time the Council made their decision the appellant had not provided planning obligations in relation to education, leisure, off-site sports

contribution, highways and a contribution in relation to the improvement of public transport infrastructure to offset the effect of the proposed development. However, the appellant has as part of their appeal submitted a planning obligation pursuant to Section 106 of the Act, which addressed the issues outlined above.

20. None of the planning obligations contained within the agreement appear to be in dispute and the Council have provided a statement of CIL regulation compliance. However, I have considered them against the tests in Regulation 122 of the CIL Regulations 2010 and the Framework nonetheless.

21. The first obligation deals with education provision related to the additional demand that would be created by the proposed development and the calculation/phasing of the contribution. The Council have identified a need for a contribution for the provision of school places at Woodlands Pre-School, Clifton All Saints Academy, Henlow Middle School and a contribution towards upper school provision at Etonbury Middle School to meet the needs of the proposed development. Moreover, it was confirmed at the Hearing that this would not be in contravention of Regulation 123 of the CIL regulations 2010 in relation to pooling. The provision of a contribution for education is reasonably related in scale and kind to the needs generated by the proposed development. Further, these requirements are consistent with Policies CS2 and CS3 of the CSDPD.

22. The second obligation deals with leisure provision. The Council has identified a need for additional leisure provision at the Flitwick Leisure Centre. The contribution sought in the appeal scheme amounts to 60 additional gym stations, which was confirmed at the Hearing as consistent with the requirements of Policies CS2 and CS3 of the CSDPD. The third obligation deals with off-site sports provision and would secure the enhancement of existing outdoor pitches in the village. The Council has identified a need for off-site sports provision within Clifton. Furthermore, the provision within the obligation of off-site sports provision is consistent with the requirements of Policies CS2 and CS3 of the CSDPD.

23. The fourth obligation deals with highway and public transport improvements. The Council has identified a need for a contribution towards the provision of improved cycling and bus stop facilities in Clifton, along with improvements to cycle parking at Arlesey railway station to meet the needs of the proposed development. Furthermore, it was confirmed at the Hearing that this would not be in contravention of Regulation 123 of the CIL Regulations 2010 in relation to pooling. Moreover, the provision of a contribution towards public transport improvements is reasonably related in scale and kind to the needs generated by the proposed development and is consistent with the requirements of Policies CS2, CS14 and DM3 of the CSDPD.

24. The fifth obligation deals with the management and retention of on-site open space and sustainable urban drainage. This sets out a notification process for the chosen management arrangements of the on-site open space and sustainable urban drainage solution and restricts the use of the land for public recreation and amenity. This is consistent with the requirements of Policies CS2 and CS3 of the CSDPD.

25. I therefore consider that the obligations meet the necessary tests in law and I have taken account of them in reaching my decision.

Other considerations

26. There was local concern raised in relation to the potential cumulative effect of the proposed development and other developments in Clifton on the capacity of the local road network in the village. However, based on all of the evidence before me and the observations during my site visits, I am satisfied that any increase in traffic from the proposed development would not result in severe harm to highway safety. This is consistent with the conclusions of the Highways Authority who raised no objection in relation to capacity or highway safety subject to the provision of site and locality specific highway/public transport improvement work.

27. Moreover, I am not persuaded based on the evidence before me and my site visit observations that the proposed development or its associated traffic would result in harm to the character or appearance of the Clifton Conservation Area due to the residential scale of the development, and its location in relation to the conservation area. Consequently, the proposed development would not fail to preserve the character or appearance, and consequently the significance, of the Clifton Conservation Area.

28. Additionally local residents raised concern about potential noise during and after construction from the development. However, this is a matter that could be reasonably mitigated during the construction phase by the imposition of a construction management condition and any post construction noise would be controlled by other environmental legislation.

Conditions

29. The conditions suggested by the Council have been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. In addition to the appellant's suggested time limit reduced outline implementation conditions, it is necessary for certainty, to define the plans with which the scheme should accord. It is necessary in the interests of amenity that the reserved matters should be in general conformity with the parameters set out in the indicative development framework plan. It is necessary for certainty to define the maximum number of dwellings (95).

30. To minimise the risk of flooding, it is necessary for details of surface water drainage to be agreed with the Local Planning Authority. It is necessary to impose a condition requiring an assessment of ground conditions and for details of any required remediation to be submitted to and approved by the Local Planning Authority. Furthermore, it is necessary to impose a condition requiring a scheme for the provision of not less than 35% affordable housing for the development to comply with the requirements of Policy CS7.

31. In the interests of highway and pedestrian safety it is necessary to ensure the construction of the access arrangements in accordance with the approved plans prior to the occupation of any dwelling and that the visibility splays are provided and thereafter retained free from obstruction. Moreover, it is

necessary to impose a condition requiring the provision of a travel plan for the new residents of the development.

32. To minimise the risk to biodiversity it is necessary to apply a condition in restricting the clearance of existing trees and hedgerows during the bird nesting season. It is necessary in the interests of amenity to impose conditions in relation to the submission of a landscape management plan, lighting strategy, waste receptacles and open space management plan for agreement by the Local Planning Authority. Further it is necessary to control and agree details of methods of construction in the interests of local residents. It is necessary in the interests of amenity to impose a condition restricting the height of the proposed dwellings to a maximum of two storeys in height.

Planning balance and conclusion

33. I have found that the proposed development would be contrary to the development plan in that it would result in moderate harm to the rural character and appearance of the area. Balanced against this is the contribution to the supply of housing of up to 95 new homes with 35% of those affordable, to which I have given significant weight.

34. Taking everything into account including all other material considerations, I conclude that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole.

35. For the above reasons and having regard to all other matters, I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR

Schedule – Conditions

1) Details of the layout, scale, appearance and landscaping, including boundary treatments (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins 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 two years from the date of this permission.

3) The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan reference 6586-L-01 REV D, Access Plan reference 4746/35/01E (Hitchin Lane) and 4746/35/04 (New Road).

5) The submission of reserved matters and the implementation of the development hereby permitted shall be carried out in accordance with the parameters set out in the indicative Development Framework Plan 6586-L-02 REV T.

6) The development hereby approved shall comprise up to a maximum of 95 units.

7) The first reserved matters application shall include an Open Space Scheme showing all areas of open space to be provided within the site including public amenity open space and an equipped children's play area. The scheme shall also include details of the location, layout, size, time of provision, proposed planting, location and specification of boundary structures, play equipment and materials.

8) No dwelling hereby permitted shall be occupied until the access arrangements and associated pedestrian improvements have been constructed in accordance with approved drawing nos 4746/35/01E (Hitchin Lane) and 4746/35/04 (New Road).

9) No development shall take place until an Environmental Management/Construction Management/Method Plan and Statement with respect to the construction phase of the development have been submitted to and approved in writing by the Local Planning Authority. Development works shall be undertaken in accordance with the approved Environmental Management/Construction Management/Method Statement/Plan. Amongst other things, the details shall include, hours of work/piling/deliveries; access arrangements for construction vehicles; contractors parking areas, compounds, including storage of plant and materials; specification of plant and equipment to be used; construction routes; details of wheel washing facilities; loading and unloading areas; minimisation of dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development; an undertaking that there shall be no burning of materials on site at any time during construction; details of any piling

required, including method (to minimise noise and vibrations), duration and prior notification to affected neighbouring properties; overall monitoring methodology; and details of the responsible person (site manager/office) who can be contacted in the event of a complaint.

10) Development shall not commence until a scheme for the provision of affordable housing as part of the development has been approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future national policy that replaces it. The scheme shall include:

    i) The number, type and location on the site of the affordable housing provision to be made which shall consist of not less than 35% of housing units; the units shall be distributed across the site with no more than 15 per cluster.

    ii) The tenure shall be split 63% affordable rented and 37% intermediate housing;

    iii) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

    iv) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Housing Provider is involved;

    v) Details on the arrangements to ensure that the provision is affordable for both the initial and subsequent occupiers of the affordable housing; and

    vi) The occupancy criteria used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

11) Development shall not commence until a phase II investigation of potential contamination is carried out and its results submitted to and approved in writing by the Local Planning Authority. If the Phase II investigation indicated that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority. Remediation work shall then be carried out in accordance with the approved scheme. If remediation is required a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling hereby permitted.

12) There shall be no clearance of trees and shrubs in preparation for (or during the course of) development during the bird nesting season (March - August inclusive) unless checked by an experienced ecologist prior to removal to check for the presence of active nests. Should the ecologist reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.

13) As part of the Reserved Matters a Lighting Strategy will be submitted to the Local Planning Authority for approval and shall thereafter be implemented and retained in accordance with the approved scheme.

14) As part of the Reserved Matters, a landscape management plan, to include the identification of any trees and hedgerows to be retained, the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas, other than for privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscape management plan shall be carried out in accordance with the approved details.

15) No development shall take place on site until a detailed scheme for the provision and future management and maintenance of surface water drainage, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented in accordance with the approved details and timetable and shall be retained thereafter.

16) No dwelling hereby permitted shall be occupied until a Travel Plan, which shall include a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented in accordance with the approved details.

17) Any reserved matters application for layout and appearance shall include a scheme for the provision of waste receptacles for each dwelling shall be submitted to and agreed in writing by the Local Planning Authority. The receptacles shall be provided before occupation takes place.

18) Visibility splays shall be provided at the junctions of the access off New Road with the public highway before the development is brought into use. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access from its junction with the channel of the public highway and 43.0m measured from the centre line of the proposed access along the line of the channel of the public highway. The required vision splays shall for the perpetuity of the development remain free of any obstruction to visibility.

19) No development shall take place until details of a forward visibility splay of 25.0m provided across the apex of the junction of Hitchin Lane the access with the public highway in accordance with Section 10 page 30 of Central Bedfordshire Design Guide, have been submitted to and approved in writing by the local planning authority. The splay shall be provided in accordance with the approved details and shall for the perpetuity of the development remain free of any obstruction to visibility.

20) No dwellings of the development hereby permitted shall exceed two storeys in height.

DOCUMENTS SUBMITTED AT THE HEARING

1. Court of Appeal Judgement – Suffolk Coastal District Council and Hopkins Homes Limited and Secretary of State for Communities and Local Government – Richborough Estates Partnership LLP and Cheshire East Borough Council and Secretary of State for Communities and Local Government – 17 March 2016
2. Policy CS6 of the CSDPD
3. Email from Bob Smith (Local resident)
4. A look at Clifton Beds. by B. Livesey & S. J. Stacey (Local history book)
5. Philippa Whittington's representation (Clifton All Saints)
6. Barry Livesey's representation (Clifton Parish Council)
7. David Maple's representation (Local resident)
8. Gladman housing delivery trajectory spreadsheet
9. Planning resource article 4 October 2016 – Gavin Barwell to RICS
10. Statement of Common Ground - Signed
11. 5 Year Housing Land Supply Statement – Central Bedfordshire Council
12. Appeal decision – APP/G2453/A/14/2228806
13. Mrs C Lynch's email representation (Local resident)
14. Phil Millard's email representation (Local resident)
15. Susan Harrison's email representation (Local resident)

APPEARANCES

FOR THE APPELLANT:

Chris Still	Gladman Developments Ltd
Alan Evans	Kings Chambers
Tim Jackson	FPCR – Landscape Consultant
Danielle Passi	Gladman Developments Ltd
Charlotte Self	Gladman Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Alex Harrison	Central Bedfordshire Council
Hugh Flanagan	Francis Taylor Building

INTERESTED PERSONS:

Barry Livesey	Clifton Parish Council
Pauline Livesey	Local resident
Philippa Whittington	Clifton All Saints Academy
David Shelvey	Ward Councillor
David Maple	Local resident
Mike Talbot	Local resident
Clive Furr	Local resident
Daphne Furr	Local resident
Raymond Dart	Local resident
Mr Carson	Local resident