The Planning Inspectorate

Appeal Decision

Inquiry held on 28-29 March and 16-17 October 2017

Site visit made on 29 March 2017

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 20 November 2017

Appeal Ref: APP/P0240/W/16/3152707
Former Readshill Quarry, Back Street, Clophill, Central Bedfordshire MK45 4AE

- 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 Hamlin Estates against the decision of Central Bedfordshire Council.
- The application Ref CB/15/04602/OUT, dated 30 November 2015, was refused by notice dated 20 May 2016.
- The development proposed is 51 units of residential development.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. Access was the only detailed matter fixed for determination as part of the appeal. A masterplan was submitted with the application, which the appellant confirms is illustrative to support the case for the number of dwellings proposed. I have dealt with the appeal on this basis.

3. The description of the development in the application form was for 'residential development' and part 17 of the form indicates that the original proposal was for 70 residential units. However, during the course of the application and prior to its determination the number of dwellings proposed was reduced. Part E of the appeal form advises that the description was changed from that stated in the application form to '51 units of residential development' and this is confirmed in the decision notice. Accordingly, I have determined the appeal on the basis of the reduced number of dwellings.

4. The red line boundary defining the appeal site is disputed between the main parties. The Council contends that the site area was amended during the application process from an area of 2.78 hectares (ha) covering the development footprint to an area of around 8 ha of land, but that this was not amended on the application form and that an additional planning fee was not submitted. Accordingly, the Council queries whether the application as revised was valid. The appellant on the other hand asserts that the appeal site remains the smaller area of 2.78 ha of land, shown on the red line plan originally submitted with the application.

5. Whether or not the amended planning application was valid, the Council determined it. The appeal should be determined on the basis of the plans which were before the Council when it decided the application. The decision notice refers to three plans, one of which is a site location plan showing the red line around the full 8 ha site (Drawing no. HAM 2853 PA 002). It is stamped as revised and with the date on which the application was refused. Accordingly, I have determined the appeal on the basis of this as the red boundary of the site.

Development Plan

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory development plan for this appeal comprises the Central Bedfordshire Core Strategy and Development Management Policies Development Plan Document (DPD) (2009) (the Core Strategy) and Site Allocations DPD (2011), together with the saved policies from the Mid Bedfordshire Local Plan (2005). The Core Strategy covers the period up to 2026. Although these pre-date the National Planning Policy Framework (the Framework), paragraph 215 of the Framework provides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

7. A new Local Plan for Central Bedfordshire is being prepared, the Central Bedfordshire Local Plan 2015-2035 (emerging Local Plan), which was published for consultation on 4 July 2017. Paragraph 216 of the Framework states that decision takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent of any unresolved objections and the degree of consistency with the Framework. However, given that the emerging Local Plan has only reached the Regulation 18 consultation stage, it is common ground between the main parties that little weight can be attached to it for the purposes of this appeal.

Main Issues

8. The application was refused on three grounds. These included concerns about the effects of the proposal on the character of the area and the ecology of the site, its relationship with the existing settlement of Clophill, whether the appeal site as a former quarry would provide a safe environment for residential occupation and the absence of a legal agreement to secure affordable housing and mitigate the impact of the development on local infrastructure and facilities. During the course of the appeal, the appellant submitted further reports in respect of slope stability and ecology, including a landscape and ecology management plan (LEMP). At the inquiry a completed S106 deed of undertaking was also provided by the appellant with obligations for contributions to off-site highway improvements and education facilities, affordable housing and the implementation of the LEMP.

9. Consequently, the Council confirmed in evidence that its concerns over slope stability were satisfied and in closing submissions that the second and third reasons for refusal relating to ecology and local infrastructure had been addressed subject to the delivery of the proposed mitigation measures. Accordingly, these matters are not determinative of the appeal and it has not been necessary for me to deal with them in detail in my reasoning below. The effect of the proposal on the character of the area and its relationship with the settlement remain in dispute between the parties and inform the main issues set out below.

10. Whether or not the Council can demonstrate a 5 year supply of deliverable housing sites is a main issue in this case, which affects whether the appeal falls to be determined under the 'tilted balance' in the fourth bullet point of paragraph 14 of the Framework. At the commencement of the appeal, the Council's evidence stated that it was unable to demonstrate a 5 year supply of deliverable housing sites. At that stage the extent of the shortfall in the supply was disputed between the parties. The appellant challenged the Council's calculation of the shortfall by reference to updated evidence on the objectively assessed housing need (OAHN) in Central Bedfordshire. The inquiry was adjourned after hearing evidence on all other matters to allow the Council to prepare updated evidence on OAHN. The Council published a new Strategic Housing Market Assessment for Luton and Central Bedfordshire 2017 (SHMA) in July 2017 alongside the consultation on its emerging Local Plan. The resumed inquiry heard the respective evidence of both parties in respect of OAHN and housing land supply.

11. Therefore, in view of the above, and having regard to everything else I have read, heard and seen, the main issues in this appeal are:

    - The effect of the proposed development on the character and appearance of the surrounding area, including Back Street and the landscape of the Greensand Ridge;
    - The suitability of the appeal site for the proposed development in terms of its relationship with the existing settlement of Clophill and its accessibility to local services and facilities;
    - Whether or not the Council is able to demonstrate a 5 year supply of deliverable housing sites.

Reasons

Character and Appearance

12. The appeal site is a former sand quarry, located on the northern edge of Clophill. It is roughly bowl shaped, with steeply graded slopes along its northern, western and eastern sides and an embankment along its frontage with Back Street on the southern boundary of the site. Access is currently gained from the junction of Back Street with the A6 to the west, via metal palisade gates.

13. Mining operations at the site ceased around 27 years ago and the quarry floor and sides have largely returned to nature. The floor is covered by grassland and self-seeded trees. The quarry sides are densely wooded with Birch, Sweet Chestnut and other mixed woodland. The embankment along Back Street and the rims of the quarry contain mature trees, which form part of the surrounding landscape.

14. The site lies within the Greensand Ridge, which is one of the key landscapes in Central Bedfordshire, valued for its intrinsic landscape qualities and as a recreational and ecological resource. It is described in the Landscape Character Assessment[1] (LCA) as a large scale ridge forming part of the prominent band of Greensand that extends across Central Bedfordshire, with a strong wooded context and supporting remnants of heathland and grassland

[1] Central Bedfordshire Landscape Character Assessment, March 2014

habitat. The Greensand Ridge Walk, which travels the length of the ridge, provides an important recreational footpath for walkers to enjoy the landscape of the Ridge. Part of its route runs from Back Street along the eastern and northern edges of the appeal site, affording views across the quarry floor and sides. Despite the history of quarrying at the site, its natural Greensand geology, the wooded sides and ridges and the heath-like landscape on the quarry floor contribute to the landscape character of the Greensand Ridge. Traffic from the nearby A6 does not significantly disturb the tranquillity of the footpath and the quarry environment.

15. Policy CS16 of the Core Strategy seeks to conserve and enhance the character and distinctiveness of the landscapes defined in the LCA and to resist development where it will have an adverse impact on important landscape features. More specifically, Policy DM14 of the Core Strategy states that proposals which have an adverse effect on the Greensand Ridge, amongst other noted landscapes, will be rejected unless there is a particular need for, or benefit arising from the proposal that would override this requirement. More generally, the site falls outside of the settlement envelope of Clophill, as defined in Policy DM4 of the Core Strategy, where the supporting text to the policy is clear that the countryside needs to be protected from inappropriate development.

16. The proposed development would create a small residential estate within the countryside and the Greensand Ridge landscape character area. It would not constitute a form of development that would be appropriate in the countryside, as envisaged by Policy DM4. The development would have a profound impact on the landscape character of the site, creating a distinctly urban form, with buildings, roads, driveways, fencing and street lighting. This would be unsympathetic to the natural landscape features of the Greensand Ridge and contrary to the aims of Policies CS16 and DM14 to conserve and enhance the landscape character of the Ridge.

17. Whilst there is other residential and institutional development within the wooded Greensand landscape to the north of Back Street, this is more sporadic and less formal, such as in The Slade, or dwellings along the Back Street frontage, which respect their rural setting. In contrast the substantial built footprint and estate style character of the appeal proposal, as illustrated in the proposed masterplan, would fail to respect the distinctive landscape context of the Greensand Ridge. As such it would also be contrary to the design principles set out in Policies CS14 and DM3 of the Core Strategy.

18. I have carefully considered the Landscape Visual Impact Assessment (LVIA) submitted by the appellant. This concludes that during construction and on opening the landscape impacts of the development would be moderate adverse, reducing to minor adverse after 15 years. I recognise that a suitably conditioned landscaping scheme would help to soften the development over time. However, this would not alter the fundamental change in the character of the site from wooded, heath-like landscape to urban development resulting from the proposal. In my view, the proposal would have more than a moderate adverse impact on the landscape character of the site and the Ridge for the lifetime of the development.

19. In terms of visual impacts, although the site sits in a bowl with the development platform on the quarry floor, the floor and sides of the quarry are

visible and the proposed development would be seen by a number of receptors and from a range of viewpoints. In particular, it would be seen by walkers using the Greensand Ridge Walk (GRW) along much of the length of the eastern rim of the quarry. These would be regular rather than glimpsed views, given the high canopy of the tree line along the footpath. The development would also be visible for pedestrians and drivers via the proposed entrance off Back Street, through the embankment currently screening the site on its southern side, and via the current entrance to the site, from the junction of the A6 and Back Lane. From all of these viewpoints, receptors would perceive the urbanisation of the site and the adverse impact on its current landscape character. Although other buildings and dwellings are visible to the east of the GRW footpath along the eastern edge of the site, these are dispersed and do not detract from the surrounding landscape character.

20. Policies CS17 and DM16 seek to protect and enhance green infrastructure (GI), including the Greensand Ridge, and to prevent development that would prejudice the GI network. Although not publicly accessible, the appeal site contributes to the GI network as a visual and ecological resource within the Greensand Ridge. The LEMP proposes the restoration of acid grassland habitat and the removal of invasive tree species within the site, which would benefit its biodiversity and contribute to nature improvement in the Greensand Ridge. The proposal would also create an additional footpath connecting Back Street to the GRW along the western slope of the former quarry. However, these GI improvements would be offset against the negative effect that views of the housing estate would have on walkers' enjoyment of the natural environment of the Ridge along the GRW. This would prejudice the site's contribution to the GI network, contrary to the aims of policies CS17 and DM16 of the Core Strategy.

21. Turning to the effect of the proposal on the Back Street frontage of the site. The current character of Back Street from its junction with the A6 to the junction with Readshill is of a narrow country lane, which runs uphill into the older part of the village. The absence of footpaths and verges and the tree lined embankments on either side contribute an informal rural appearance. The highway works to form the access to the proposed development would widen Back Street from around 4.5 metres to 9 metres, with footpaths cut into the embankments on either side, and create a formal estate road T-junction through the embankment on the southern boundary of the site. The works would be likely to result in the removal of sections of the embankment and its supporting stone wall and a number of mature trees on this boundary of the site, albeit the details of any earthworks and tree removal would be subject to reserved matters approval.

22. The overall effect of the highway works would be to formalise the entrance to Back Street off the A6, fundamentally changing its character and appearance from rural to urban. The removal of a number of mature trees along Back Street would also affect the skyline views of the site from different vantage points in the area. Whilst remodelling the embankment and wall and replanting would help to mitigate these changes, it would not restore the existing character of the street. The development guidelines for the Greensand Ridge in the LCA seek to preserve the strong wooded horizon and skyline of the Ridge and to conserve the character of rural roads, limiting urbanising influences such as kerbing, widening and the erosion of verges. As such the proposed highway works on Back Street would be contrary to these guidelines.

They would also fail to respect the local context and distinctiveness of Back Street, again contrary to Policies CS14 and DM3.

23. I noted the evidence of the wall and embankment along Back Street degrading in places where stones have fallen away and tree roots have been exposed. I recognise that in time works may need to be carried out to stabilise the wall and embankment, which may result in the removal of sections of both and a number of mature trees. However, as a fall-back position, this does not justify the urbanising impact that the proposed highway works and the creation of a formal street design and entrance would have on the rural character and appearance of Back Street. I also acknowledge that the creation of a new entrance on Back Street would enable the removal of the existing palisade fence and gates seen from the A6. However, they are set back from the carriageway and are not such a visual detractor that their removal as part of the proposed development would constitute anything other than a minor enhancement to the appearance of Back Street.

24. On this basis, I conclude that the combined impacts of the proposed development on the rural appearance of Back Street and the landscape character of the site and the Greensand Ridge would cause significant harm to the character and appearance of the area as a whole. Consequently, the proposal would be contrary to Policies CS14, CS16, CS17, DM3, DM4, DM14 and DM16 of the Core Strategy. It would also fail to comply with paragraph 17 of the Framework, which expects development to take account of the character of different areas, recognising the intrinsic character and beauty of the countryside.

Location and Accessibility

25. Although the appeal site sits outside of the existing settlement envelope of Clophill, the proposed development would be within easy walking distance of the centre of the village on High Street. Access to the primary school, village hall, post office and public houses would be via Back Lane, Mill Lane, Readshill and other residential streets to the south of the site, all of which are well populated. For residents of the proposed development, journeys to and from these local facilities would therefore lead them past other houses and through adjacent residential areas, which would encourage a sense of integration rather than segregation from the village community.

26. Due to its enclosed setting within the former quarry, the proposed development would not share a street frontage with other residential properties or estates in the village. However, despite the barrier created by the embankment on Back Street, the estate would be visually and physically connected to Back Street via the proposed entrance to the development. The alterations to the highway layout on Back Street would link the site with the footpath and road network of the village.

27. Whilst I agree that the setting and location of the site would result in the proposed houses being on the periphery of the village, for the reasons given above this would not amount to the development being either isolated or segregated from the remainder of Clophill. The relationship of the development and its proximity to the centre of the village would be comparable to other outlying developments on the edge of Clophill. Examples include Goodwood Close on the south side of the A507, which is linked to the village via a footbridge, and more recent developments at the eastern end of the High

Street, which are at a greater distance from the village centre. There has been no suggestion that these represent poorly planned or isolated developments.

28. Therefore, in terms of its relationship with the existing settlement of Clophill and its accessibility to local services and facilities, I conclude that the appeal site would represent a suitable location for the proposed development. In these respects the proposal would not give rise to material harm to the quality of the development or cohesion of the community and could function well as part of the village.

Housing need and land supply

Housing Need

29. In order to determine whether the Council is able to demonstrate a 5 year supply of deliverable housing sites, it is first necessary to establish the OAHN for the area. Paragraph 47 of the Framework expects local authorities to plan to meet in full the objectively assessed needs for market and affordable housing in the housing market area (HMA). In the absence of an up to date housing requirement figure in an adopted local plan, the Council's SHMA, dated May 2017 and published in July 2017, provides its latest full assessment of housing needs for the HMA of Luton and Central Bedfordshire. The SHMA identifies an OAHN for Central Bedfordshire of 32,000 dwellings for the period 2015-2035, at 1,600 dwellings per annum (dpa).

30. However, the appellant considers this to be an underestimate of the OAHN for Central Bedfordshire and has submitted its own report on OAHN, dated August 2017. This calculates a 20 year housing requirement for Central Bedfordshire of 48,540 dwellings or 2,427dpa. I note the background to the SHMA, that it was endorsed in August 2017 in the Stotfold appeal decision[2] as the most trusted indicator of housing need for the area and that the previous 2015 iteration was scrutinised at the Luton Local Plan examination. However, the latest version has not yet been subject to detailed testing at a local plan examination. Whilst I agree with the Inspector in the Henlow appeal[3] that an appeal is not the forum to carry out a forensic analysis of the SHMA, given the evidence before me, it has been necessary to consider the differences between the Council's and the appellant's assessments to establish an appropriate OAHN in order to determine whether the Council is able to demonstrate a 5 year supply of deliverable housing sites at this appeal.

31. Both the SHMA and the appellant's OAHN report follow the approach to assessing housing need set out in the Planning Practice Guidance (PPG)[4]. They agree on the SHMA's use of Luton and Central Bedfordshire's administrative areas as providing a 'best fit' HMA for the purposes of this appeal. It is also common ground that there is no need to uplift the OAHN to align jobs and workers and that a vacancy rate of around 4% should be used to convert from households to dwellings. However, there are key differences on the period for assessing housing need, the estimates for migration, allowances for the suppression of household formation and the adjustment for market signals. In addition the parties differ on whether Luton's unmet need should be included in

[2] APP/P0240/W/16/3166033
[3] APP/P0240/W/15/3003634
[4] PPG Reference ID: 2a-014 to 2a-029

the assessment of the 5 year housing land supply for the purposes of this appeal. I consider each of these matters in turn below.

32. Assessment period: The SHMA assesses OAHN over the period 2015-2035, which aligns with the plan period for the emerging Local Plan. The appellant has adopted the period 2011-2036 so that the start point aligns with the most recent Census. Paragraph 159 of the Framework establishes that the SHMA should identify the housing need over the plan period. This is reiterated in paragraph 003 of the guidance on housing needs assessments in the PPG[5]. Using the 2011 Census start date would include household growth which pre-dates the plan period. Accordingly, I am satisfied that the assessment period used in the SHMA is reasonable and appropriate.

33. Migration: Both parties use the DCLG's latest 2014-based household projections as a starting position for forecasting housing need, based on the Sub-National Population Projections (SNPP) published by the Office for National Statistics (ONS). There are three key components to the ONS projections – births, deaths and migration. It is common ground that the fertility and mortality rates used by the ONS are appropriate.

34. However, the Council points to evidence which suggests the ONS Mid-Year Estimates (MYEs) are unreliable in respect of their estimate of net migration in Central Bedfordshire. In the period 2001-2011 the MYEs overestimated population growth in Central Bedfordshire by 7,200 people, compared to the 2011 Census results. Given that it is accepted that data on recorded births and deaths are broadly accurate, the conclusion drawn by the Council is that the discrepancy is due to an overestimate of net migration. Reference was made to the report of the House of Commons Public Administration Select Committee on Migration Statistics, which reported the Royal Statistical Society's view that the misrepresentation of population growth in the ONS estimates was caused by inaccurate internal and international migration estimates[6].

35. The MYEs for 2001-2011 were corrected by the ONS by means of an 'unattributable population change' (UPC) and the ONS has instituted a Migration Statistics Improvement Programme. However, the Council's evidence states that for Central Bedfordshire the overestimating of population growth has continued in the MYEs from 2011 onwards. Comparison with the other administrative data sources used by the ONS to validate population estimates, such as the NHS patient register, suggests that for the period 2011-2015, population is increasing in Central Bedfordshire at a slower rate than suggested by the MYEs, by approximately 15%.

36. Therefore, in the SHMA the Council has undertaken its own population projection for the period 2015-2035, using a model comparable with that of the ONS, but adjusted to correct for ongoing overestimates in migration using administrative data to determine the size of the correction. The result is a downwards adjustment to the DCLG household projections for 2015-2035 of around 16% from 34,587 to 29,005 households. It has also used a 10-year migration trend based on the period 2005-2015, in preference to a 5-year trend which has the potential to roll forward unduly high or low short term trends.

[5] Paragraph 003: Reference ID: 2a-003-20140306
[6] Paragraph 37 of House of Commons Public Administration Select Committee, Migrations Statistics, Seventh Report of Session 2013-14, July 2013

37. The appellant disagrees with the Council's approach to migration estimates. It maintains that the issues with the official recording of migration in the early 2000s have been addressed and that the ONS statistics are robust and can be relied upon. However, Table 12 of Appendix 35 to Mr Robert's proof of evidence suggests that the migration component of the MYEs for Central Bedfordshire for the period 2011/12-2015/16 continues to be included at levels significantly above the adjusted figure for 2010/11.

38. Comparing the respective outputs indicates that the SHMA projections forecast a 19.7% population increase in Central Bedfordshire over the period 2015-2035, placing it within the upper decile of growth by local authority area nationally. This would be consistent with the growth pressures being experienced by Central Bedfordshire, given its proximity to Milton Keynes and location within the south east. However, the ONS 2014-based projections predict a 25.8% increase, which would make Central Bedfordshire the 10th fastest growing area in the country. Little has been advanced in the way of socio-economic factors that would support such an accelerated rate of growth.

39. Ultimately, I have two alternative approaches to migration estimates before me, both of which I have carefully considered. This appeal does not afford the opportunity for a more rounded and detailed testing of the evidence on this point. That will be for the emerging Local Plan examination. However, I am satisfied based on the evidence I have read and heard that there is sufficient uncertainty about the reliability of the migration component of the MYEs for the Luton and Central Bedfordshire HMA to support the sensitivity testing undertaken by the Council. The downward adjustment to the DCLG projections applied by the Council falls within the bounds of what might be reasonably justified based on other administrative data sources. The approach is consistent with the guidance in the PPG on sensitivity testing of the DCLG household projections[7].

40. Household Formation: The PPG acknowledges that the household projection based estimate of housing need may require adjustment to reflect household formation that has historically been suppressed by under-supply and affordability[8]. The SHMA includes an increase in the housing need of 301 dwellings (15 dpa) to provide for concealed families and homeless households based on an evidenced assessment of unmet needs for affordable housing in Central Bedfordshire. The appellant's OAHN report argues that the DCLG household projections model forward the suppression of household formation and that an upward adjustment of 39 dpa is required.

41. In part the difference appears to be based on evidence in the appellant's report of a projected increase in 'other' households in Central Bedfordshire as an indicator of ongoing suppressed household formation. However, the Council points out that 'other' households include all multi-adult households without a couple, not all of which would be 'suppressed' households. For example, shared student accommodation, siblings or friends who choose to live together and adult children living with lone parents for care reasons. Further, the calculation to support the appellant's figure of 39 dpa is not available. On this basis, I find the Council's adjustment for suppressed households to be more convincing and appropriately justified.

[7] PPG Paragraph: 017 Reference ID: 2a-017-20140306
[8] PPG Paragraph: 015 Reference ID: 2a-015-20140306

42. Market Signals: It is common ground that the OAHN should be uplifted to address affordability issues in Central Bedfordshire. The SHMA applies an increase of 10% based on an analysis of market signals compared to other similar demographic and economic areas and the national average. The appellant's OAHN report favours an uplift of 20% taking account in particular of uplifts made in some other areas of the south east, the ratio of house prices to earnings and the recommendations of the Local Plans Expert Group (LPEG) report and the National Housing and Planning Advice Unit (NHPAU).

43. It is acknowledged that the PPG does not set out a specific formula or methodology to quantify the level of any uplift for market signals. Therefore, ultimately it is a matter of professional judgement based on an analysis of the market signals. Whilst I note the NHPAU suggested that an increase in housing requirements of 28% above the demographic baseline was required in the East of England to stabilise affordability, this is an average figure and I did not have before me the full set of data on which that percentage was based. Likewise, although the LPEG approach would suggest an uplift of 20% for Central Bedfordshire based on its analysis of house prices and rents to household earnings, it was agreed in discussion that the LPEG recommendations carry very little weight as they have not been adopted and have no status in national planning policy or guidance.

44. The question of an appropriate uplift for market signals was considered in detail at the Luton Local Plan examination, for a similar HMA. This concluded that the evidence in the SHMA justified an uplift of 10%, which I note was supported by a range of representatives at the Luton Local Plan hearings, including the House Builders Federation. Further as a sense check, the Council provided a comparison of market indicators in Central Bedfordshire with those in Camden, where an uplift of 20% was applied following the examination of the local plan. Whilst house prices and rents in Central Bedfordshire are rising at faster rate than in Camden, on the key affordability indicator of lower quartile house prices to earnings, the ratio in Camden is significantly above that of Central Bedfordshire and rising at a faster rate. This suggests that lack of affordability is not at such a level in Central Bedfordshire as to justify a comparable uplift. Accordingly, I am satisfied, based on the evidence before me at this appeal, that a market signals uplift of 10% to the housing need in Central Bedfordshire suggested by the household projections would be reasonable to address affordability issues.

45. The SHMA includes the increase to provide for concealed families and homeless households discussed above as part of the overall market signals uplift. This is in line with the guidance in the PPG, in which it is clear that a market signals uplift is in part a response to unmet need for housing in concealed and homeless households[9].

46. Luton unmet need: The appellant argues that Central Bedfordshire's 5 year housing requirement should take account of unmet need arising from Luton, which has been identified following the examination of the Luton Local Plan and in the Council's emerging Local Plan. The Council's position is that Luton's unmet needs are not part of Central Bedfordshire's housing needs and therefore not relevant in establishing a 'policy off' OAHN at this appeal. Rather they should be considered in the emerging Local Plan, as part of a 'policy on'

[9] PPG Paragraph: 019 Reference ID: 2a-019-20140306

assessment of Central Bedfordshire's housing requirement, which would also take account of any potential constraints on housing development numbers.

47. Paragraph 47 of the Framework expects local planning authorities to meet the full OAHN in the HMA. The SHMA identifies that Luton and Central Bedfordshire share an HMA and it has been established through the examination of the Luton Local Plan that Luton will be unable to meet all of its OAHN. Whilst the Council's evidence stated that a figure has not yet been formally agreed between the respective local authorities, paragraph 7.6.1 of the emerging Local Plan says that the Council has agreed to provide for 7,350 homes in Central Bedfordshire to accommodate part of Luton's unmet needs. So there seems little doubt that the Council expects to accommodate a share of Luton's unmet needs and that Central Bedfordshire's housing requirement will need to increase further above its OAHN.

48. However, notwithstanding the statement in the emerging Local Plan, the amount of Luton's unmet need which Central Bedfordshire should reasonably accommodate has not yet been tested at examination. The Luton Local Plan Inspector's report concluded that there is no firm agreement about how, where and in what quantity Luton's unmet needs should be provided for and that certainty on these points can only be achieved where neighbouring plans have been examined and adopted[10]. It is common ground that little weight can be attached to the emerging Local Plan for the purposes of this appeal, given that it is at an early stage. Therefore, it would be premature for me to count a specific share of unmet needs from Luton now as part of Central Bedfordshire's housing requirement for the purposes of establishing its 5 year housing requirement at this appeal.

49. In reaching this view I have taken into account the court judgements to which I was directed on this point, including the St Modwen High Court decision[11]. However, the Court of Appeal judgement in Oadby and Wigston[12], which post-dates and considered the St Modwen decision, states that *'a planning inspector should not adopt a level of need for market or affordable housing that is…the product of a conscious redistribution of need from one local planning authority's area to another, where this is effectively…an untested "policy on" decision, liable to be revisited and changed in a subsequent local plan process'*. Whilst this judgement related to a case where the decision maker was seeking to adopt a housing requirement below the full unconstrained housing needs of the area, the same principle must apply where the decision maker is being asked to apply a housing requirement above the full OAHN.

50. I recognise that the Inspector in the Stotfold appeal referred to above took account of Luton's unmet need in determining whether Central Bedfordshire could demonstrate a 5 year housing land supply. However, I was referred to other appeal decisions, notably the Dinton case[13], in which the Inspector concluded it would not be appropriate in the context of a S78 appeal to include unmet need from a neighbouring authority which had not been tested at examination, even where a formal Memorandum of Understanding between two neighbouring authorities to do so existed. Ultimately, I do not have the full details of the evidence that was before the Stotfold appeal inspector. Based on

[10] Paragraphs 38 and 39 of Report on the examination of the Luton Local Plan, August 2017
[11] St Modwen Developments Ltd. v Secretary of State for CLG [2016] EWHC 968 (Admin)
[12] Oadby and Wigston BC v SSCLG [2016] EWCA Civ 1040, paragraph 38
[13] APP/J0405/W/17/3173201 and 3173203

the evidence which is before me, I conclude that in this case Luton's unmet need should not be added to Central Bedfordshire's OAHN for the purposes of assessing whether the Council can demonstrate a 5-year housing land supply.

51. Conclusion on OAHN: In the absence of an up to date housing requirement figure for Central Bedfordshire in an adopted local plan, I have carefully considered the evidence in the Council's latest SHMA and tested it against the alternative OAHN report submitted by the appellant. I am satisfied that the SHMA is a thorough and robust assessment of the housing needs of the HMA Although its baseline household projection is lower that the DCLG 2014-based projection, the downward adjustment in respect of migration estimates due to data quality issues has been fully justified. Likewise, the uplift in the dwelling requirement for market signals is reasonable in the light of the evidence available.

52. Applying an overall sense check to the figures recommended by both. The SHMA estimate of 32,000 dwellings or 1,600 dpa represents a 27% increase in dwellings over 20 years. This would be higher than for most surrounding areas, except for the growth areas of Milton Keynes and Cambridge, and consistent with growth levels in London. On the other hand the appellant's OAHN figure of 48,540 dwellings or 2,427 dpa represents an average annual growth of 2.1%, which would be the highest proportional housing target of any Local Plan found sound since the publication of the Framework. This compares with the estimated housing requirement of 2,553 dpa for the period 2016-2026 resulting from the DCLG consultation on a standard methodology for calculating local housing need[14]. However, it is agreed between the parties that little weight can be attached to the standard methodology or the figures in the accompanying data table at this appeal, given that they remain subject to consultation and further consideration by the DCLG in the light of any responses.

53. Therefore, on the basis of the evidence before me and without prejudice to the outcome of future more detailed testing via the local plan examination, I conclude that the figure of 1,600 dpa or 32,000 dwellings in the period 2015-2035 represents a robust estimate of OAHN in Central Bedfordshire for the purposes of this appeal. Accordingly, it provides a reasonable basis for assessing whether or not the Council can demonstrate a 5-year supply of deliverable housing sites.

Housing Land Supply

54. Paragraph 47 requires a 5 year supply of deliverable sites against the housing requirement, with an additional buffer of 5% to ensure choice and competition or 20% where there is a record of persistent under delivery. There is no dispute over the buffer. The Council is able to demonstrate acceptable delivery against the annual housing target for all except one of the last 7 years[15] and therefore a buffer of 5% should apply. There has been no shortfall in delivery since the beginning of the plan period, with the number of dwellings completed exceeding the target by 110 units. The relevant period for calculating the housing land supply is taken by both parties as 1 April 2017 to 31 March 2022.

[14] Planning for the right homes in the right places and Housing need consultation data table, September 2017
[15] Document 20 submitted at the inquiry

55. Accordingly, based on an OAHN of 1,600 dpa, the 5 year housing requirement confirmed in the evidence of both parties is 8,367.5 dwellings or an annual target of 1,673.4 dwellings. Against this the Council's 5 Year Land Supply Statement (5YLSS), dated 1 July 2017, lists a trajectory of over 60 sites, either allocated or with planning permission, from which 9,625 dwellings are considered to be deliverable within the 5 year period. This has been boosted by a number of planning permissions granted since the commencement of the inquiry.

56. The appellant considers the delivery rate of sites in the 5YLSS to be optimistic, but evidence was only provided to challenge 5 of the sites included in the trajectory. At the inquiry the appellant agreed that, based on the updated evidence in the latest 5YLSS, the Grovebury Farm site (HT074) is now capable of delivery in full in the 5 year period. Of the other 4 sites which were questioned[16], all have outline planning permission, are advancing through reserved matters, and are owned by or close to being contracted to house builders. It was agreed that an average completion rate of 50 dpa by a single house builder outlet is realistic in Central Bedfordshire. On this basis, I find that the Council has made reasonable assumptions about the prospects of these disputed sites being delivered in line with the trajectory.

57. The appellant maintains that a 10% lapse rate should be applied to the trajectory on the basis that it is unrealistic to expect all of the sites to be delivered in full and without delay. However, there is no policy support in the Framework or the PPG on which to base a general lapse rate. Further, the evidence of delivery against the housing target in Central Bedfordshire over the last 3 years suggests that there is little local basis for a lapse rate to be applied. Whilst I recognise that lapse rates have been applied in 5 year housing land assessments in some appeal decisions, there is little to justify such an assumption in this case.

Overall Conclusion on 5 year housing land supply

58. I have not found it necessary to adjust the Council's housing land supply figure in respect of the disputed sites. Therefore, the 5 year supply stands at 9,625 dwellings. Based on an annual target of 1,673.4 dwellings, this represents a 5.75 year supply. Even if a lapse rate of 10% were applied, the supply would still be in excess of 5 years. Accordingly, I conclude that for the purposes of this appeal, the Council can comfortably demonstrate a 5 year supply of deliverable housing sites.

Other Matters

59. Concerns have been raised about highway safety in representations from local residents and the Clophill Parish Council. These relate to the increased traffic volumes on Back Street and the A6 and visibility at the proposed entrance to the site. However, the highway authority confirms that the access could be constructed to meet relevant safety standards. I am also satisfied that there would be adequate visibility at the proposed entrance in both directions along Back Street. Although to achieve this would require the re-profiling of the embankment along a reasonable length of Back Street, which adds to the harm to the character and appearance of the area. Whilst traffic volumes on the A6 are heavy at peak times, the S106 undertaking proposes a toucan crossing

[16] Sites HT058, HT077, HT079 and HT117

over the A6 and a contribution to improvements at the A6/A507 roundabout. Subject to these, any effects on the safe and efficient operation of the highway network would not be such as to justify dismissal of the appeal on transport grounds, in line with paragraph 32 of the Framework.

60. With regard to ecological impacts, Policies CS18 and DM15 of the Core Strategy support the maintenance and enhancement of habitats and the protection of known locations of identified species. The proposed development would result in the loss of some areas of woodland and open mosaic vegetation habitat. However, the LEMP submitted with the appeal proposes compensation in the form of the creation of 2.28 hectares of acid grassland habitat, which would be secured via the S106 undertaking. Left unmanaged, it is acknowledged that this habitat would likely disappear under succession to woodland. Therefore, this would represent a benefit arising from the proposal which would meet the expectations of policies CS18 and DM15 and contribute to the nature improvement objectives of the Greensand Ridge.

61. The Council maintains that this would be offset by the harm to reptiles, in particular slow worm as a protected species recorded on site, from cat predation resulting from the proposed development. However, the appellant's ecological evidence suggests that any loss of reptiles would be more than compensated for by the creation of habitat to increase the slow worm population. Accordingly, on the basis of the evidence submitted I acknowledge that cat proof fencing would not be necessary as an ecological mitigation measure. However, the absence of cat proof fencing would have little effect in reducing the harm caused by the proposed development on the character and appearance of the area as a whole.

62. Finally, concerns were raised about the effect of the proposed number of houses on capacity at local schools. However, the submitted S106 undertaking proposes a financial contribution of £416,055 towards the enhancement of early years, lower, middle and upper school facilities. This would serve to mitigate any negative impact on school overcrowding, but at most this would have a neutral effect overall.

Planning Balance and Conclusion

63. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. An important material consideration is the fourth bullet point of paragraph 14 of the Framework, wherein the 'tilted balance' would apply if the development plan is silent or relevant policies are out of date.

64. I have concluded that the Council can demonstrate a 5 year supply of deliverable housing sites for the purposes of this appeal. Therefore, on this evidence, under paragraph 49 of the Framework the relevant policies for the supply of housing should be considered to be up to date.

65. However, the appellant argues that the tilted balance should still apply because the "policies for the supply of housing" in the Core Strategy are out of date since they were drawn up to meet a housing requirement in the revoked East of England Plan (regional strategy), which is now out of date. The appellant applies a similar argument to Policy DM4, which although not a policy for the supply of housing, is a relevant policy in this appeal, which the appellant

considers to be out of date and/or inconsistent with the Framework because it gives effect to settlement boundaries that were set to meet an out of date housing requirement. I note that this is consistent with the view of the Inspector in the Stotfold appeal decision, which although subject to a legal challenge in which the Secretary of State has submitted to judgement, had not been subject to a High Court order at the time of writing and therefore remains a material consideration for the time being.

66. I have considered these points carefully. The fact that the housing requirement in a development plan may become out of date as fresh demographic projections or housing data become available, should not of itself result in "policies for the supply housing" in that plan being out of date. As time goes on some sites allocated in the plan will be developed and some will remain to form part of the ongoing supply. Other spatial policies may direct housing to certain locations. However, unless collectively those "policies for the supply of housing" are failing to deliver a supply of housing land in accordance with the objectives of paragraph 47 of the Framework, namely 5 year supply plus 5% or 20% against an up to date full objectively assessed housing requirement, it follows that they remain up to date and relevant for the distribution of housing in line with the spatial strategy in the relevant plan for that area. To say otherwise would be inconsistent with the thrust of the Supreme Court judgement in the Suffolk Coastal v Hopkins Homes case[17].

67. For the same reason, a policy which restricts the location of development to within settlement boundaries in order to protect the countryside from urban encroachment, in this case Policy DM4, should not be considered out of date simply because the settlement boundaries to which it relates were drawn up prior to the Framework or in the context of now out of date housing requirement. The principle of settlement boundaries is not inconsistent with the Framework, which expects planning to take account of the character of different areas recognising the intrinsic character and beauty of the countryside. Provided those settlement boundaries are not preventing the delivery of a supply of housing in line with paragraph 47 of the Framework, which in this case they are not due to the proven existence of a 5 year supply, the policy should not be considered out of date on that point.

68. Consequently, I conclude that relevant policies, including Policy DM4, and the relevant policies for the supply of housing are not out of date and that the 'tilted balance' in paragraph 14 of the Framework is not triggered in this case. Accordingly, the appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise.

69. I have concluded that the proposal would cause significant harm to the character and appearance of the area as a whole, in terms of its impact on Back Street and the Greensand Ridge. As such it would be contrary to Policies CS14, CS16, CS17, DM3, DM4, DM14 and DM16 of the Core Strategy. I recognise that the development of 51 new dwellings would offer important social benefits in terms of a contribution to the supply of housing in the area, in particular the delivery of 18 affordable homes, given the affordability issues in Central Bedfordshire. However, the weight to be attached to this is moderated by the fact that the housing needs of the area are currently being met through the delivery of other sites as part of the 5 year supply. I have also taken

[17] Suffolk Coastal DC v Hopkins Homes Ltd, etc ([2017] UKSC 27

account of the benefits to ecology from the creation of habitat, but the weight given to this is tempered by the loss of other habitat. Although there would be some economic benefits arising from the construction phase of the project and support for local village facilities, these have not been quantified and in any case would be relatively small scale, so I attach a relatively little weight to these in favour of the proposal. The contributions to education and transport infrastructure are designed to mitigate negative impacts and therefore carry neutral weight.

70. Overall, I conclude that the benefits of the proposed development would be outweighed by the significant environmental harm it would cause to the character and appearance of the area. Although the 'tilted balance' does not apply in this case, for completeness, even if it were to be triggered, I conclude that the adverse impacts identified would significantly and demonstrably outweigh the benefits of the proposed development. As such, on both counts, the proposal would not constitute sustainable development.

71. Accordingly, the development would be contrary to the development plan and to the policies of the Framework taken as a whole. There are no material considerations which indicate the appeal should be determined other than in accordance with the development plan.

72. For the reasons given above, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Alexander Booth	Of Queen's Counsel, instructed by Central Bedfordshire Council
He called:	
Phillip Hughes BA (Hons) MRTPI Dip Man MCIM	Principal, PHD Chartered Town Planners
Jonathan Lee BSc (Hons)	Managing Director, Opinion Research Services

FOR THE APPELLANT:

Satnam Choongh	Of Counsel, instructed by Charles Robinson of DLP Planning Ltd
He called:	
John Nuttall BA (Hons) DipLA MA CMLI	Director of Landscape, EPD-Parkwood Consultancy
Charles Robinson BTech (Hons) MPhil MRTPI	Director, DLP Planning Ltd
Alex Roberts BSc (Joint Hons) AssocRTPI	Director, Strategic Planning Research Unit, DLP Planning Ltd

INTERESTED PERSONS:

Ralph Brough	Clophill Parish Council
Michael Brooks	Local Resident, Clophill
Paul Downing	Ward Councillor, Central Bedfordshire Council

DOCUMENTS SUBMITTED AT THE INQUIRY

1 – Statement from Savoy Consulting, transport planning consultancy, confirming the proposed access and highway works do not involve land in third party ownership – submitted by the appellant.

2 – Letter from Rickett Architects dated 14 March 2017 regarding the impact of the proposed development on slope stability – submitted by the appellant.

3 – Letter from EPS consultancy, dated 23 March 2017, regarding slope stability – submitted by the appellant.

4 – Opening submissions on behalf of the Appellant, dated 28 March 2017.

5 – Opening submissions on behalf of Central Bedfordshire Council – dated 28 March 2017.

6 – Extract from Central Bedfordshire LDF Site Assessment Technical Document Appendix 2s for Rural Areas – submitted by the Council.

7 – Statement to the inquiry by Michael Brooks of 76 High Street, Clophill, dated 28 March 2017.

8 – Draft S106 Unilateral Undertaking – submitted by the appellant.

9 – Suggested conditions – submitted by the Council.

10a – Letter from Central Bedfordshire Council to DLP Planning Ltd dated 1 March 2017 regarding validation of application reference CB/16/05438/OUT.

10b – Letter from Central Bedfordshire Council to DLP Planning Ltd dated 22 March 2017 regarding validation of application reference CB/16/05438/OUT.

11 – Letter from DLP Planning Ltd to Central Bedfordshire Council dated 14 March 2017 regarding validation of application reference CB/16/05438/OUT.

12 – Map showing Public Rights of Way in the vicinity of the appeal site, dated 29 March 2017 – submitted by the Council.

13 – Information sheet about the Greensand Ridge Nature Improvement Area – submitted by the Council.

14 – Leaflet entitled The Greensand Ridge Nature Improvement Area: An Introduction – submitted by the Council.

15 – Appeal decision for land to the west of New Road, Dinton, Aylesbury Vale (APP/J0405/W/17/3173201 and 3173203) – submitted by the Council

16 – Appeal decision for land at Well Meadow, Well Street, Malpas, Cheshire (APP/A0665/A/14/2214400) – submitted by the Council

17 – Appeal decision for land north of Lower Farm Road, Bromham, Bedford (APP/K0235/W/17/3167566) – submitted by the Council

18 – Appeal decision for land to the north of Dark Lane, Alrewas, Burton upon Trent, Staffordshire (ALL/K3415/A/14/2225799) – submitted by the appellant.

19 – Appeal decision for land and buildings off Watery Lane, Curborough, Lichfield (APP/K3415/A/14/2224354) – submitted by the appellant.

20 – Housing delivery in Central Bedfordshire 2011/12-2016/17 – submitted by the Council

21 – Closing Submissions on behalf of Central Bedfordshire Council – dated 17 October 2017

22 – Closing Submissions on behalf of the Appellant – dated 16 October 2017

23 – Final signed copy of s106 agreement, dated 29 September 2017