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## Appeal Decision

Hearing Held on 31 July 2019

Site visit made on 31 July 2019

**by David Wyborn BSc(Hons), MPhil, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 September 2019**

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**Appeal Ref: APP/Y0435/W/19/3220584**

**The Globe, 50 Hartwell Road, Hanslope MK19 7BZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Andy Lord of Clayson Country Homes against the decision of Milton Keynes Council.
  - The application Ref 18/01968/FUL, dated 8 August 2018, was refused by notice dated 12 December 2018.
  - The development proposed is the erection of 13 dwellings, central open space area (including SUDs) and access onto Hartwell Road.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The address in the heading above is taken from the application form, however, the proposal is on the land behind the public house with the access through to the main road and therefore the scheme does not directly affect the public house building in itself.
3. Since the Council refused the proposal, the Milton Keynes Council Plan:MK 2016-2031 (Plan:MK) has been adopted on 20 March 2019. This is now the development plan for the area.

### Main Issues

4. The main issues are:
  - whether the appeal site is an appropriate location for development of this type, having regard to access to local services and facilities and development plan policies,
  - the effect of the development on the character and appearance of the area, and
  - whether the Council can demonstrate a National Planning Policy Framework (the Framework) compliant supply of deliverable housing sites.

## Reasons

### *Location of development*

5. Plan:MK identifies a settlement boundary for Long Street on the Policies Map. Long Street, therefore, falls to be considered within the village and rural settlements category of Policy DS1 of Plan:MK. This policy allows new development within the defined settlement boundaries of villages and other rural settlements at locations identified in made neighbourhood plans.
6. Policy DS5 of Plan:MK defines open countryside as all land outside the development boundaries defined on the Policies Map and in such locations planning permission will only be granted for development in the limited circumstances specified in the policy.
7. The site, with the exception of the vehicular access adjoining the public house, is located outside the settlement boundary of Long Street. The site for the housing therefore falls in open countryside. The scheme would not meet with the exceptions for development set out in Policy DS5 of Plan:MK. As a consequence, the scheme would conflict with the development plan approach to delivering housing in villages and rural settlements.
8. The emerging Hanslope Neighbourhood Development Plan (the NDP) has made progress since the decision to refuse the proposal. The Council has agreed the examiner's recommendations and the emerging NDP is proceeding to referendum. I have substantive information on the emerging NDP and its approach to housing, although a final version of the emerging NDP was not submitted as part of the evidence. Nevertheless, a plan of the proposed development boundary for the village of Hanslope and the settlement of Long Street has been submitted and this is the key detail in this case.
9. The adopted settlement boundary in Plan:MK, in the vicinity of the site, is different from the development boundary in the emerging NDP. This is because the settlement in Plan:MK includes more buildings in the two limbs which extend further from Hartwell Road. Nevertheless, both settlement boundaries exclude the land on which the housing is proposed. In these circumstances, the proposed residential housing would also be outside the settlement boundary of the emerging NDP and therefore would be contrary to the approach to the location of housing for Long Street in the emerging NDP.
10. Policy DS1 of the Plan:MK seeks to direct new homes and jobs taking account of the settlement hierarchy focusing the majority of development to the existing urban area of Milton Keynes. This approach is complemented by the detail of Policy DS2 of Plan:MK concerning the housing strategy. The settlement boundaries help direct development to those areas which are closest to services and facilities and therefore a site beyond the settlement boundary would not, in principle, accord with this intention.
11. However, the housing would be located adjoining the Long Street settlement boundary within which it is considered to be a location which can accommodate some housing development. Indeed, three houses are under construction at the entrance to the site. The proposed housing site would be in the vicinity of two bus stops with links to nearby towns, the footway link to Hanslope is walkable for some, and future occupiers would have fairly convenient access to the range of services and facilities at Hanslope. Overall, the site would have

reasonable access to services and facilities. Nevertheless, this level of access would not address the policy conflict with the location of the housing outside the settlement boundary.

12. In the light of the above analysis, I conclude that the site would not provide an appropriate location for the scheme because of the conflict with Policies DS1, DS2 and DS5 of Plan:MK and the approach set out in the emerging NDP which seeks, amongst other things, to direct new residential development in accordance with the settlement hierarchy and defined settlement boundaries.

#### *Character and appearance*

13. Long Street is mainly linear in form with buildings fronting Hartwell Road which runs through the settlement. However, there is built development that extends back from the main road, along Higham Cross Road, Forest Road and Glebe Lane and this influences the overall character and pattern of the settlement.
14. The housing is proposed on a reasonably level area of land behind The Globe. The site is fairly well contained from the wider open countryside by established tree and hedge boundary planting, particularly along the north eastern side. The land has generally more affinity with the built form of the settlement than the more open countryside beyond. The existing built development of the defined settlement (as per Plan:MK) extends along Glebe Lane and Forest Road further away from the Hartwell Road than the proposed residential development. As a consequence, the scheme would not extend development further into countryside than the existing built form in the vicinity.
15. The proposed layout of the housing would be reasonably spacious with a central area of landscaping together with other planting opportunities to soften the appearance of the development. The mature trees and hedging around the boundaries of the site would not be materially impacted. Most of the dwellings would be substantial and this would clearly change the appearance of the site, however, the overall built form with its design, materials and spacing between buildings would integrate acceptably with the pattern of Long Street without undue harm to the wider character of the area.
16. The reason for refusal indicates that the proposal would detract from the rural character of the countryside but does not reference a policy in the then emerging Plan:MK that would be failed. Nevertheless, for the reasons explained above, I conclude that the scheme would have an acceptable impact on the character and appearance of the area and thereby would accord with the Framework requirements that development be sympathetic to local character and establish and maintain a strong sense of place.

#### *Housing land supply*

17. During the consideration of the proposal by the Council and subsequently at appeal, a variety of documents, reports, appeal decisions and calculations all relating to housing land supply have been submitted. The related information is often relevant to the situation at that time and the information has been revised in subsequent documents to take into account more recent data and revised guidance. While I have had regard to all this information, I have taken the greatest account of the more recent evidence and data before me.

18. The Statement of Common Ground shows that there is no meaningful disagreement between the main parties regarding the requirement for housing over the 5 year period, from 1 April 2019 to 31 March 2024.
19. Although Plan:MK is recently adopted, the Council explained at the hearing that it was not able to establish the housing land supply position during the Local Plan examination such that this could now be demonstrated pursuant to paragraph 74 of the Framework. Also, the information before me is that there is no agreed annual position statement. Furthermore, the evidence indicates that the Housing Delivery Test figure is such that it does not engage the presumption in favour of sustainable development as set out in paragraph 11d of the Framework.
20. Accordingly, it is necessary to examine whether the Council can demonstrate a 5 year housing land supply. While the Local Plan Inspector confirmed that there was a realistic prospect that there would be a five year housing land supply of deliverable housing land on plan adoption, Plan:MK was examined under the 2012 version of the Framework with its definition of a deliverable site.
21. The 2019 version of the Framework has a stricter definition which states that where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. It was accepted at the hearing that the responsibility to show clear evidence falls on the local planning authority in relation to these types of site, and further guidance is provided on what constitutes a deliverable housing site in the Planning Practice Guidance<sup>1</sup>.
22. There are sites which the local planning authority have identified for the 5 year period from 1 April 2019 that are accepted as being deliverable by the appellant. However, there is a dispute about whether there is clear evidence regarding the deliverability of a number of sites which are mainly allocations or have an outline permission. The Council consider that 6.41 years of housing land supply can be identified whilst the appellant believes that the position is 3.87 years. Both main parties have submitted information on a list of individual sites that are in dispute, and I heard evidence on these at the hearing.
23. My attention has been drawn to an appeal decision at Woolpit in Mid Suffolk<sup>2</sup> and the analysis of housing land supply. This decision sets out an approach advising against subsequently including housing sites that were not listed at the start of the accounting period and indicates that care is needed not to consider evidence to seek to retrospectively justify why a scheme was included at the start of the 5 year period when clear evidence of deliverability was not available at that time.
24. I have carefully considered the appellant's comments and concerns with each site in dispute and that it is argued, amongst other issues raised, that for many sites at 1 April 2019 there was no or insufficient clear evidence to meet the definition of a deliverable site. The evidence indicates that the local planning authority has reduced its calculations of housing land supply to reflect the

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<sup>1</sup> Paragraph 007 Reference ID:68-007-20190722

<sup>2</sup> APP/W/3520/W/18/3194926 – Land on east side of Green Road, Woolpit, Suffolk, IP30 9RF

stricter definition of a deliverable site in the latest version of the Framework. The Council has also been proactive in contacting site owners to collect data, including seeking to have this information included on a pro-forma which sets out the expected housing build out rates on an annual basis, as well as visiting sites to check construction.

25. Examining the larger sites in dispute, I consider that there is, in the majority of these cases, clear evidence to determine that they meet the realistic prospect of being delivered as specified in the definition. For instance, with Tattenhoe Park, this is a Homes England site where Phase 1 is being developed, the next phases are being progressed, developers have been identified for Phases 2 and 3, there is written agreement of the intentions, and some of the wider site conditions have been met. I consider that there is clear evidence with Phases 2-5 that demonstrates a realistic prospect that housing should be delivered in line with the projected housing figures.
26. In respect of the Western Expansion areas the evidence indicates that the strategic infrastructure is in place to service all the plots projected within the 5 year period. Some areas have the reserved matters submitted which helps to demonstrate the confidence that the Council had with respect to housing delivery when the site was included at the start of the accounting period. The 300 dwellings per annum figure for Western Expansion Area 10.1-10.3 is ambitious, however, delivery should be aided as the evidence indicates that the site is separated into multiple development parcels across a range of housebuilders. These sites have outline planning permission and the clear evidence demonstrates that there is a realistic prospect that the specified housing will be delivered within the 5 year period.
27. With the Glebe Farm site, the evidence before me sets out that some reserved matters have been approved, parcels of land have been sold to national housebuilders, other reserved matters submissions are being considered and overall the evidence indicates that this justifies the confidence that the Council had when it was included in the original 5 year assessment. I am satisfied that there appears to be evidence of good progress with reserved matters applications across the site, and overall there is clear evidence such that there is a realistic prospect that the housing will be delivered within the 5 year period. Indeed, the evidence from the development manager of the site is that housing delivery should be capable of an increased number of units than the trajectory originally indicated.
28. The Campbell Park allocation has had a development brief approved by the Council which I consider is clear evidence of progress towards an application and preferred developers have been chosen. The housing projections have been agreed with the landowner and while the appellant questions the details and that only an outline application may be submitted in due course, there is sufficient clear evidence available to demonstrate to my satisfaction that this Milton Keynes Development Partnership site has a realistic prospect of being delivered as the trajectory sets out.
29. I am also satisfied on other sites that there is a realistic prospect of delivery, for example such as at Church Farm, Lakes Estates Neighbourhood Plan sites, Bletchley New Leys, and the two sites at Olney. The information shows firm progress is being made towards expected delivery such that this justifies the confidence of the Council to include the sites in the original list and I am

satisfied that there is clear evidence that these sites should be considered to meet the definition of deliverable in the Framework.

30. With the sites that are proposed to deliver smaller numbers of housing, there is a mix of information available and, to my mind, uncertainty with some sites that they meet the definition of being deliverable, because, for instance, they may have an outline permission and are being marketed. However, many of the remaining sites have sufficient clear evidence in the form of a specified trajectory on the pro-forma and supporting information to demonstrate a realistic prospect of delivering the housing within the 5 year period.
31. The Council has needed to investigate many of the housing sites as part of the Local Plan examination. Also, in the past there has been a history of under delivery against the housing requirements, however, in 2018/19 the housing completions met the required figure for that year. This recent background situation provides further confidence that the Council's position is robust.
32. Based on all the information before me at the present time, I conclude that sufficient sites have clear evidence to demonstrate that there would be a realistic prospect of the housing being delivered within the 5 year period as specified, even taking into account the lapse rate proposed by the Council, such that a figure of housing land supply towards that indicated by the Council is to be preferred and that a Framework compliant 5 year housing land supply can be demonstrated.

### **Other Matters**

33. The scheme would provide 13 dwellings. Four units would be affordable units and this element would be policy compliant. The 13 units would provide a meaningful contribution to housing supply and the affordable units would provide a valuable social benefit to the local community. The site would be in a location with reasonable access to services and facilities. There would be economic and social benefits during construction, and in subsequent occupation. It may be that the dwellings would provide the opportunity for local residents to upsize into one of the units and therefore enable them to stay within their community. I attribute these benefits moderate weight.
34. In terms of the signed and dated legal agreement, with the exception of the museum, emergency services and the inward investment contribution, I find that the obligations would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. While the affordable housing contribution would be a benefit that I attach moderate weight, the other contributions largely mitigate the impacts of the development and therefore I attribute them limited weight.
35. There would be some resulting benefits to biodiversity on the site with the areas of open space and the implementation of the recommendations of the ecological appraisal. This, however, would be a minor benefit of the scheme given the scale of the proposal and I attribute this limited weight.
36. The scheme is promoted on the basis that it would incorporate elements of sustainable design and operation, and with an architectural style and impact that would be acceptable within the area. In terms of a benefit of the scheme this affords limited weight.



37. The housing requirement figure is a minimum and the size of the site and the type of housing proposed could provide market choice as it would have a different housing offer to the larger sites proposed elsewhere. The Framework indicates that small and medium sized sites, such as the appeal site, can make an important contribution to meeting the housing requirements of an area as they are often built out relatively quickly. There are no technical reasons preventing the housing being built and the appellant would be willing to accept a condition that commencement would take place within 12 months. This would be supported by the Framework that wishes to see housing delivery boosted and make a contribution towards the ambitions set out in The Oxford-Cambridge Arc document<sup>3</sup> that has been drawn to my attention. Given the number of units proposed, I attach moderate weight to these benefits.

### **Conclusion**

38. I have found that the local planning authority can demonstrate a 5 year supply of deliverable housing sites and therefore the policies concerning the strategy for delivering housing and the related settlement boundary, which are the most important policies for determining the application, are up-to-date.
39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the site is located outside the settlement boundary as defined in Plan:MK and there is clear policy conflict in this respect.
40. The emerging NDP has been justified, in part, as a way of regaining control over the location of housing within this parish and the advanced stage of the emerging NDP is such that I attribute it considerable weight. The harm resulting from the conflict with the emerging NDP with its proposed settlement boundary, I consider to be substantial.
41. The scheme would deliver housing without undue harm to the character and appearance of the area and the cumulative benefits outlined above I afford moderate weight. However, these are not sufficient to outweigh the significant harm it would have by way of undermining the Council's strategy for delivering housing.
42. Taking all these matters into account, the scheme would not accord with the development plan when considered as a whole and the evidence does not indicate a decision other than in accordance with the development plan would be justified. Accordingly, I conclude the appeal should be dismissed.

*David Wyborn*

INSPECTOR

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<sup>3</sup> Ministry of Housing, Communities & Local Government – The Oxford-Cambridge Arc – Government ambition and joint declaration between Government and local partners (2019).

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Ross Middleton	CC Town Planning
Mr Jonathan Dixon	Savills
Mr Andy Lord	Clayson Country Homes

### **FOR THE LOCAL PLANNING AUTHORITY:**

Miss Sharon Bayton	Milton Keynes Council
Mr James Williamson	Milton Keynes Council
Mr Paul Keen	Milton Keynes Council
Cllr Andrew Geary	Milton Keynes Council

### **INTERESTED PERSONS**

Mrs Eileen Price	Hanslope Parish Council
Mrs Jackie Cass	Hanslope Parish Council
Mr Tony Cox	Local Resident
Mr Chris Bertram-Gregory	Local Resident

### **Documents submitted at the hearing:**

- 1) Aerial Photograph of Long Street
- 2) Settlement boundary of Long Street from Plan:MK
- 3) Policy DS2 from Plan:MK
- 4) Milton Keynes Housing Land Supply information and pro-formas.