



Appeal Decision

Inquiry held from 10 to 12 September 2019

Site visits made on 9 and 12 September 2019

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/K0235/W/19/3227767

Land off Deep Spinney, Biddenham, Bedfordshire, MK40 4AH

- 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 Lioncourt Strategic Land Limited against the decision of Bedford Borough Council.
 - The application Ref 18/00140/MAO, validated on 17 January 2018, was refused by notice dated 31 October 2018.
 - The development proposed is 'outline planning application for up to 250 dwellings including vehicular access from Gold Lane, emergency only access from the A4280, pedestrian and cycle links, public open space, car parking, drainage, landscaping and other associated works. All matters are reserved except for access'.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 249 dwellings including vehicular access from Gold Lane, emergency only access from the A4280, pedestrian and cycle links, public open space, car parking, drainage, landscaping and other associated works at land off Deep Spinney, Biddenham, Bedfordshire, MK40 4AH in accordance with the terms of the application Ref. 18/00140/MAO and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application is in outline with detailed approval sought for access. Matters of appearance, landscaping, layout and scale are reserved for future consideration. Various parameter and other plans were submitted with the application. I have treated these as being indicative for the purposes of this appeal, the only exception being the Parameter Plan – Above Ground Development (5072/PL08 REV B) which the main parties have agreed should be the subject of a condition of any planning permission granted. On this basis, as the general location of built development would be bound by this plan, I have taken it into consideration in my reasoning below.
3. Following submission of the application to the Council, the proposal description was amended from up to 250 dwellings to up to 249 dwellings. I have considered the appeal on this basis and the revised description of development is reflected in my formal decision above.

4. Following the inquiry, a planning obligation, signed by the appellant and the Council dated 9 September 2019 was submitted under Section 106 of the Town and Country Planning Act 1990. Other than minor amendments, the wording and provisions of this agreement are essentially the same as the unsigned version considered at the Inquiry. The undertaking includes affordable housing provision, the on-site provision and maintenance of open space and equipped play area, along with financial contributions towards local healthcare provision, local bus stop enhancements and A4280 roundabout improvements. I return to consider this later in this decision.
5. The Council has confirmed at the Inquiry that it is satisfied that the s106 agreement would resolve its 3rd, 4th and 5th reasons for refusal relating to on-site open space and play space, affordable housing and healthcare provision. It also confirmed that it would not be defending its second reason for refusal regarding education provision.
6. The appeal site is located close to several listed buildings and the Biddenham Conservation Area. Although the Council has raised no objection in this regard, there is a statutory duty for me to have special regard to the desirability of preserving the setting of a listed building. In relation to conservation areas, the National Planning Policy Framework also states that regard be had to any effect on the heritage significance of assets, including from development within their setting. I have therefore included such matters in my main issues below.

Main Issues

7. The main issues are:

- i) The effect of the proposed development on the integrity and purpose of the Urban Open Space and Gap and the Local Gap designations, and upon the character and appearance of the surrounding area;
- ii) The effect on the special interest and significance of heritage assets, including nearby listed buildings and the adjacent Biddenham Conservation Area.

Reasons

Background

8. The Council has resolved to grant planning permission for a separate application for 160 dwellings on a smaller part of the appeal site. A s106 agreement for that scheme has been completed and the Council is awaiting the outcome of a recent 'call-in' request before it issues the permission.
9. The examination hearings for the emerging Bedford Borough Local Plan 2030 have been completed and consultation is currently taking place on the proposed modifications to the plan. The plan is expected to be adopted by the end of this year. The 160 dwelling scheme referred to above would accord with Policy 19 of this emerging plan which proposes to allocate 160 dwellings on the site. The proposed modifications to this policy do not change the principle of the proposed allocation of 160 dwellings. Considerable weight can therefore be given to policy 19 of the emerging plan and, taking account of this background, I agree with the Council that significant weight can be attached to the 160 dwellings scheme in establishing a baseline for the consideration of the appeal scheme.

10. The Council's reason for refusal includes reference to the proposal being harmful to the character and appearance of the area. Written representations from local residents have also been made regarding the effect upon the visual appearance of the area and landscape qualities of the site. At the Inquiry the Council did not pursue its case that the proposal would be contrary to the design aims of policies BE30(i) and BE35(i) of the Bedford Borough Local Plan 2002 ('the Local Plan'). However, it did maintain in evidence that the proposal would conflict with policy CP21 of the Core Strategy which includes a requirement to improve the character and quality of the area. I have considered such matters in my reasoning below, taking into account both the visual effects of the proposal and the effect upon landscape character.

Urban Open Space, Gap and Local Gap designations, character and appearance

11. Policy AD43 of the Bedford Borough Council Allocations and Designations Local Plan July 2013 ('ADLP') recognises that open spaces can have particular importance in maintaining the function, character and identity of the urban area. Criterion viii states that such open spaces include visual breaks to safeguard local distinctiveness including views, with particular areas of importance around Elstow and Biddenham being identified as gaps.
12. Neither the text of the policy nor its supporting text, explicitly set out the reasons for designation. However, the supporting text refers to further detail being contained in relevant background papers. The designation reasons state that the open space within which the appeal site is located provides a visual break between the land along the western bypass and the village of Biddenham, maintaining the separation around the village. The site is an identified 'Gap' in which development will not be permitted to prevent coalescence. Taking account of this supporting text including the reference to coalescence, I am satisfied that policy AD43 includes the aim of seeking to safeguard the existing gap between Biddenham and Bromham.
13. Policy AD42 also seeks to prevent the coalescence of Bromham and Biddenham and to preserve the separate character and identity of Biddenham. The necessity for the two separate policies being that one (AD43) relates to land within the urban area boundary whilst the other (AD42) relates to land within the countryside. As the appeal site is within the urban area boundary, it is policy AD43 which is applicable. This follows the approach set out in policy AD41 (Urban Area Boundary) of the ADLP which states that the urban area boundary encloses the area where policies relevant to built-up areas apply and beyond which policies relevant to the countryside apply. Furthermore, given the presence of the Western Bypass and open space between the Local Gap and the appeal site, along with the additional open space to be retained within the appeal site, this is not a case where the proposed development would adjoin the local gap. Consequently, there is no conflict with policy AD42.
14. I acknowledge that, even with the appeal development, a sizeable gap would still be retained between the two settlements. The proposed developable area would also only cover a relatively small area of the totality of the open area between the two settlements. As the site is to a certain degree contained by existing landscaping and road infrastructure, the development would not be prominent from several local viewpoints or in longer distance views.
15. However, the existing open and green space to the west of Deep Spinney and Gold Lane plays a positive role in contributing to the local distinctiveness of

- Biddenham. It provides a rural edge and setting for the settlement of Biddenham, and allows views across open land and over the Great Ouse Valley.
16. The proposed residential development would extend a considerable distance west of Deep Spinney and Gold Lane. In doing so, it would effectively extend the built-up area of Biddenham into the existing open space to the south of the A4280. The proposal for 249 dwellings would reduce, by approximately a half, the existing gap between Bromham and Biddenham.
 17. In addition, the open space and existing sense of a gap and break between Biddenham and Bromham can still be experienced by vehicle users, pedestrians (including local footpath users), cyclists and residents living near to the site.
 18. I also noted at my site visits, that buildings within either settlement are not particularly visible when viewed from the developable area within the site, with the exception of some buildings on Duck End Lane. In this respect however, buildings in either settlement are likely to be more visible in winter months when most trees are not in leaf and screening is less effective. In any case, just because built development within Bromham is not visible from the site does not mean that the requirements of policy AD43 are weakened. The overall sense of separation could still be impacted by development between the two settlements and valued open space could still be lost.
 19. Whilst a substantial open area would still be retained to the settlement edge of Bromham, the proposal in replacing a substantial amount of open space with built development and extending the built edge from Biddenham towards Bromham would harm the visual break to the west of Biddenham. The loss of open space and the impact on the visual break would consequently harm local distinctiveness including the rural setting and views from Biddenham.
 20. The 160 dwelling scheme would also extend urban development from the existing edge of Biddenham towards the west. In doing so, it would have an adverse effect on the rural setting of Biddenham. However, this would be to a lesser extent than the appeal proposal, amounting to a reduction of approximately 200m in the gap between Biddenham and Bromham compared to the approximately 400m reduction that would result from the appeal scheme. The additional development, over and above the 160 dwelling scheme, would increase the extension of urban development as perceived from vehicles travelling east and west along the A4280. Whilst this would only be experienced by users of this road for a very short period of time it would nonetheless be apparent. I am mindful in this respect that the 160 dwelling scheme has been designed so that the proposed housing in that case would be considerably more contained than the 249 dwelling scheme.
 21. The impact would be more pronounced for users of local public footpaths. The 249 dwelling scheme would have greater impacts on the existing urban open space and gap from several viewpoints on what appeared to me to be well used footpaths. For example, for users of the footpath which crosses from east to west across the entirety of the appeal site the built development of the 249 dwelling scheme would be much more apparent, extending for a considerable distance immediately adjacent to the footpath. Whilst open space would be maintained to the south, the overall effect of the appeal scheme would be to diminish the visual break.

22. Therefore, even taking account of the 160 dwelling scheme as a baseline (to which I have given significant weight) the appeal proposal would compromise the purpose of the Gap contrary to the aims of policy AD43 of the ADLP. Taking account of all my reasoning above, I consider that the level of resulting harm would be moderate.
23. Biddenham Parish Council has drawn my attention to a recent appeal decision¹ at Biddenham House, Gold Lane, Biddenham when the Inspector found that part of the proposed development would have a detrimental effect on the green break provided by the Open Urban Space, contrary to policy AD43. I do not have the full details of that proposal before me. However, given my conclusion on the merits of this appeal, my findings do not generally appear to be inconsistent with this recent decision.
24. My reasoning above is also relevant to the proposal's visual and landscape effects. The main parties agree that the proposal would result in significant adverse visual impacts at the upper end of significance, although these would be limited to viewpoints from public footpaths close to the site. When passing along public footpaths the visual effects of the appeal scheme, arising from the urbanisation of the developable area of the site, would be considerable.
25. The proposed development would not be visually prominent in longer distance views. Nevertheless, although the affected local views would be over arable land with few defining landscape features, they are pleasant views. Overall, taking account of my reasoning above, including the baseline 160 dwelling scheme, I consider that the visual harm arising from the appeal proposal would be moderate.
26. The site is not part of a valued landscape (in the context of paragraph 170 of the Framework) although that does not mean that no protection at all should be afforded to it. The site predominantly consists of open flat arable land. Whilst located within the designated urban area boundary, the site as a whole is reasonably well screened from neighbouring development including that within the adjacent settlement of Biddenham. The adjacent road infrastructure does to a limited degree adversely impact upon the site's landscape characteristics as a rural landscape, both visually and from traffic noise. Nevertheless, the site still maintains considerable rural landscape qualities which contribute positively to the setting of Biddenham and its surrounds.
27. Whilst the development would maintain a good separation from existing development on Church End, it would extend considerably further across the site than the 160 dwelling scheme. Although the 160 dwelling scheme would extend across a significant part of the site, it would be more closely related to existing built development in Biddenham than the 249 dwelling scheme. Given its greater spread across the site and its poorer relationship with the existing built settlement, I consider the appeal scheme would have a moderate adverse effect upon landscape character.
28. As a result of both the adverse landscape and visual impacts, the appeal scheme would be contrary to the aim of policy CP21 of the Core Strategy to improve the character and quality of the area and local distinctiveness. Although the Council did not raise conflict with policy CP24 of the Core

¹ APP/K0235/W/18/3202507

Strategy, given my findings I am bound to conclude that there would also be conflict with the landscape protection aims of this policy.

Heritage

29. Part of the Biddenham Conservation Area extends along Church End including buildings to the south of the site. It also extends a short way along Duck End Lane incorporating three properties on the northern side of that road. The significance and special interest of the Conservation Area includes the views of the countryside outside of the Conservation Area which contribute to Biddenham's character as an independent rural settlement.
30. The views from Church End across the fields to the north contribute towards the special interest of the Conservation Area. The limitations upon development that would be enforced through the 'Parameter Plan – Above Ground Development' would ensure that built development does not take place on certain areas of the site including the southern parts of the site. In heritage terms, this would retain the most sensitive parts of the site as open spaces with more rural characters. The retained open areas would be subject to landscaping proposals to be submitted as reserved matters with the aim of retaining their informal character and appearance. On this basis I agree with the appellant's and Council's assessment that no harm would result upon the setting and special interest of the Conservation Area.
31. The Parish Church of St James located at Church End is Grade 1 listed. Views of the church tower can be gained from the development site. The rural landscape to the north and north west contributes to its significance and setting. Taking account of the restriction on development to the northern part of the site that would retain the green open space within the immediate setting of the church, I am satisfied that no harm would result upon its setting and significance.
32. The other nearest listed buildings to the site, all of which are Grade II, are the Barns at Church Farm, 3 Gold Lane and Manor Farmhouse. These buildings contribute towards an illustration of the historical development of the settlement from a rural village. The open rural character of the site, particularly the southern part nearest to the listed buildings, makes a minor positive contribution to the setting of these listed buildings. In the case of Manor Farmhouse the existing fields make a minor positive contribution to the building's agricultural links with farming history. However, the limitation on development to the northern part of the site providing a considerable level of separation, along with screening provided by existing trees, would ensure that no harm results to the significance of any of these listed buildings.
33. There are also other nearby listed buildings located on the south side of Church End. However, these have greater existing separation from the site and do not look directly over the open space. As such, the appeal site does not form part of their setting.
34. For the above reasons, taking account of the scheme as a whole, I am satisfied no harm would result to the setting and significance of any designated heritage assets.
35. The existing hedgerows within the site comprise visible landscape boundaries forming part of the historic field system. As such the parties agree that they should be considered important hedgerows and as non-designated heritage

assets. Three sections of hedgerows would be lost, the largest of which would be 55m stretch of hedgerow where the main vehicular access is proposed. The large majority of hedgerows within the site would be retained. There would therefore be some limited harm arising from the loss of the three stretches of hedgerow along with the effect of the development on the setting and significance of the important hedgerows.

36. Both main parties agree that the effect upon archaeological assets could be adequately mitigated by a condition including the requirement for the evaluation and recording of archaeological heritage assets affected by the proposal. I am satisfied that with such a condition in place the impacts upon archaeology could be satisfactorily managed and mitigated.

Benefits of the scheme

37. It is common ground that the Council is not currently able to demonstrate a five year supply of housing land. The agreed housing supply position of 3.01 years represents a substantial shortfall. The proposal would provide for 249 dwellings, of which 30% would be secured as affordable housing. The appeal scheme would provide for 89 additional dwellings in comparison to the 160 dwellings scheme. Of these additional dwellings 27 would be affordable.
38. The Council's draft Local Plan 2030 is nearing the end of the examination process and the Council anticipates it will be adopted by the end of the year. Given the progress being made I consider this timescale to be reasonable. The proposed modifications to the emerging plan do not challenge the Council's proposed quantum of housing. Once adopted, the Council expects to have a five year housing land supply of 7.01 years. The current housing shortfall is therefore only expected to last for a short period. The appellant does not challenge the Council's expectations in respect of its ability to attain a five year supply of housing.
39. It is therefore clear that the Council is making positive progress in its ability to provide for a five year housing supply and it is likely that it will be in place within a short time period. I also note from the agreed housing projections for this site that none of the additional 89 dwellings (over and above the 160 dwelling scheme) would be delivered within the five year period. However, taking account of the Framework's objective to significantly boost the supply of housing, I consider that significant weight should be given to the scheme's housing supply contribution.
40. The contribution of 27 additional affordable dwellings over and above those provided for within the 160 dwelling scheme would also attract significant weight, noting that it is agreed that the emerging plan is seeking to meet the Council's identified affordable housing needs in full.
41. The scheme could also contribute to the delivery of homes within the Government's ambitions for a future Cambridge-Oxford Arc. However, the development of proposals for this are still at an early stage and the published documentation² recognises that the ambitions for growth need to be reconciled with the need to leave the environment in a better state for future generations. This does not therefore change my view with regard to the weight afforded to the housing delivery that would arise from the current appeal scheme.

² Ministry of Housing, Communities & Local Government – The Oxford: Cambridge Arc Government ambition and joint declaration between Government and local partners (2019)

42. The proposal would lead to short term economic benefits from the creation of employment through the construction phase. Further economic benefits would arise from the expenditure of residents and visitors in the local economy. I have given these economic benefits moderate weight.
43. The delivery of publicly accessible open space is primarily a response to the need created by the development itself, though I acknowledge that this would also be available for the use of the wider population in the locality of the site. The scheme would also deliver pedestrian and cycle links that would also be available for wider public use. Furthermore, the bus stop improvements would enhance to a limited degree the existing public transport infrastructure. I have given these additional social benefits moderate weight.
44. Although the appeal site is inside the urban area boundary in a location where there is reasonably good access to local services and facilities, this is a neutral factor in my considerations given it mirrors the aims of local plan policies in this regard rather than providing for any significant benefit. The lack of technical objections is also a neutral matter as no specific benefits arise.
45. Funding provided through the Community Infrastructure Levy is intended to mitigate against the impacts of the development therefore carry neutral weight.
46. Whilst the main parties have suggested a condition that would secure ecological benefits, there is limited detail before me of what these would contain or the level of benefit that would be attained. I have therefore given such benefits only modest weight.

Other matters

47. The proposed vehicular access to and from the site would be from the upper end of Gold Lane. Satisfactory visibility splays would be provided in both directions taking into account average vehicle speeds of traffic using this road. The majority of traffic arising from the development would access via the Deep Spinney roundabout to the north. Taking account of potential cumulative impacts arising with other developments, a contribution is included within the S106 agreement towards an improvement scheme for this roundabout.
48. Whilst the width of Gold Lane to the south of the proposed vehicular access reduces to approximately 5m, this is only for a short section and there would still be sufficient room for two vehicles to pass on most occasions. Although a proportion of traffic in connection with the proposed dwellings would pass through Biddenham I am satisfied that the level of such an increase is unlikely to be so great to result in harmful impacts on highway safety or local highway conditions. I have also taken into consideration the potential for increased traffic in connection with local schools but there is no evidence to suggest that any such increases would be such to result in adverse highway safety or capacity effects.
49. I am satisfied that the proposed development would not result in any unacceptable highway safety impacts and the residual cumulative impacts on the road network would not be severe.
50. The appellant provided an updated Ecological Statement prior to the appeal. Biddenham pond contains a population of Great-Crested Newts but the proposed development free buffer zone around the pond and the requirement

for surface water measures to be agreed before development would safeguard the ecological interest of the pond. Subject to a suggested planning condition requiring the submission for approval of a Landscape and Ecological Management Plan incorporating opportunities for the enhancement of existing and the creation of new habitats on site, the scheme is capable of providing for a new gain in biodiversity. A condition is also suggested to control the effects of the external lighting on the local bat population. On this basis, the proposal would accord with the ecological protection and enhancement aims of paragraph 170 of the Framework.

51. In terms of agricultural land classification, the site is located on grade 3 agricultural land though it is unclear whether the land qualifies as grade 3a which would amount to the best and most versatile agricultural land. The proposed scheme would involve a larger take of land than the 160 dwelling scheme. However, in the absence of evidence to the contrary, the economic effects that would arise from the loss of the agricultural land would appear to be modest and would be outweighed by the overall economic benefits of the scheme.
52. Having considered the illustrative layouts, including the space that would be capable of being provided between proposed and existing dwellings, I am satisfied that a detailed scheme could be capable of being progressed at the reserved matters stage that would not result in any unacceptable harm upon the living conditions of neighbouring residents. Matters of noise and disturbance during the construction stage are capable of being managed and mitigated through a condition requiring a Construction Management Plan to be approved by the Council.
53. Whilst I acknowledge other existing and planned developments within and in the vicinity of Biddenham, this does not preclude further development in the area where proposals are found to be acceptable taking account of all relevant considerations.

Planning obligations

54. A signed and dated s106 agreement has been completed including several obligations. A CIL compliance statement has also been provided. There are no outstanding issues between the parties on any s106 matters.
55. The obligation to provide not less than 30% of the proposed dwellings as affordable housing units, two thirds being by way of affordable rent and one third by way of intermediate tenure, accords with policy CP8 of the Core Strategy and is necessary to ensure the proposal meets the need for affordable housing in the area.
56. The provision of open space including an equipped play area within the site and the associated management and maintenance provisions complies with policy AD28 of the ADLP and policy CP22 of the Core Strategy. It would help to facilitate and promote a healthy and safe community for future residents.
57. The bus infrastructure contribution would provide for the improvement and enhancement of the existing bus stop on the western side of Deep Spinney to meet the additional demand that would arise from the development and to encourage the use of public transport. This accords with policies CP2, CP29 and CP30 of the Core Strategy, policies T6 and T7 of the Local Plan and AD35 of the

ADLP. The A4280 roundabout contribution, to improve the current road arrangement at the junction with Deep Spinney, is necessary to ensure that the proposed development, in combination with other planned local development, does not lead to severe impacts upon the local road network. It accords with policy CP30 of the Core Strategy and policy AD35 of the ADLP. Finally, the healthcare contribution is necessary to ensure that local healthcare facilities are able to meet the additional demand that would be created by the development. It accords with policy BE3 of the Local Plan and CP30 of the Core Strategy.

58. From the evidence before me I am satisfied that the above obligations are necessary to make the development acceptable, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Therefore, they would accord with the three tests set out in paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Regulations 2010.

Planning Balance

59. I have found that the proposed development would compromise the sites Urban Open Space and Gap designation under policy AD43 of the ADLP resulting in moderate harm. This policy states that such development will not be permitted unless it can be demonstrated that other material considerations outweigh the need to retain the urban open space and gaps undeveloped. I have also found moderate harm to landscape character and from the visual impacts of the development which would conflict with policies CP21 and CP24 of the Core Strategy. No argument has been made to me that any conflict with these policies should be given reduced weight. Even were I to decide that reduced weight should be given to any conflict with either of them it would not alter my overall conclusions in my determination of the appeal.
60. There would be limited harm to existing hedgerows which are non-designated heritage assets. However, I am satisfied that such harm would be outweighed by the benefits of the proposal, most notably the provision of new market and affordable housing to which I have afforded significant weight.
61. In the context of policy AD43, whilst the benefits of the scheme are considerable, they would not, under a normally weighted balance, outweigh the need to retain the urban open space and gaps as undeveloped. The proposal is contrary to the development plan when considered as a whole.
62. As the Council is unable to demonstrate a five year housing land supply, paragraph 11 of the Framework requires that the policies most important for determining the application (CP1, CP3, CP21, CP24 and AD43) are deemed out of date. There are no applicable policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development. Therefore, it is necessary to consider whether the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
63. I have found moderate harm to result from the conflict with the open space and Gap designations. Moderate harm would also result upon the character and appearance of the area from the landscape and visual impacts. It would also go beyond and therefore conflict with the development aspirations contained in policy 19 of the emerging Bedford Borough Local Plan.

64. Nevertheless, significant benefits would arise from the proposal's contribution to housing land supply including affordable housing. Further moderate social and economic benefits would also accrue. Under the tilted balance, the adverse impacts do not significantly and demonstrably outweigh the benefits.
65. This is a case where I have found that, despite the conflict with the development plan, material considerations indicate that planning permission should be granted for the proposed development. The proposal would represent sustainable development as defined in the Framework.

Conditions

66. I have considered the conditions bearing in mind paragraph 55 of the Framework which states that conditions should be kept to a minimum and only be imposed where they comply with the relevant five tests. In the case of some of the suggested conditions, I have left out what I consider to be overly detailed specifications of what is required for precision and as such details could reasonably be left to the assessment of the required scheme by the local planning authority.
67. I have imposed a condition specifying the approved plans as this provides certainty on what has been approved. The Parameter Plan – Above Ground Development is included in this condition to safeguard heritage assets and prevent further encroachment upon the urban open space. As the relevant parameter plan is included in this condition there is no need for a further separate condition in this regard. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the relevant legislation.
68. I have not imposed the suggested condition regarding the matters of appearance that should be part of a reserved matters application as I consider this to be adequately dealt with by the definition of appearance within the Town and Country Planning (Development Management Procedure) (England) Order 2015 ('the Order'). The condition is therefore unnecessary. I have omitted the suggested boundary details etc condition as these details are covered by the definition of landscaping in the Order so it is also unnecessary. Similarly, I have not imposed the condition requiring details of levels to be part of a reserved matters application for scale as this is already adequately covered by the definition of scale in the Order which includes the words 'in relation to its surroundings'.
69. A condition requiring details of accessibility within the site and links to existing roads and paths outside the site is necessary in order to provide for good levels of access in and around the site. I am satisfied that this should be submitted with the reserved matters as it would closely relate to the layout of development. A waste management condition is necessary to reduce, minimise and manage waste in accordance with the waste hierarchy.
70. A Landscape and Ecological Management Plan is necessary in order to protect and enhance the ecological interest of the site. I agree with the parties that this should be submitted with the reserved matters details for landscaping in this case given the close links between landscape and ecological details and the need for these matters to be considered at the same time. A separate landscape condition to clarify the matters requiring submission with reserved matters is reasonable and necessary in this case as it provides clarification,

beyond that provided in the Order, of the matters to be submitted in order to provide for satisfactory amenity in and around the site. A separate landscaping implementation condition is not necessary at this stage as this could be imposed on any subsequent reserved matters approval.

71. Conditions requiring surface and foul water drainage details are necessary in order to prevent an increased risk of flooding, provide for appropriate drainage and to safeguard ecology. An external lighting condition is necessary to prevent unacceptable light pollution to and for the protection of bats. A condition is necessary to safeguard archaeological assets, ensuring satisfactory investigation, recording and reporting. Contamination conditions are necessary to control pollution of land and water in the interests of the environment and public safety. I have split the relevant requirements into separate conditions with re-wording for precision and clarity.
72. Compliance with the site access and off site works plan and the future retention of visibility splays is necessary to provide for a satisfactory means of access to and from the site and to ensure that local highway and transport infrastructure can accommodate the increased use arising from the development. The provision of dropped kerb pedestrian crossings is necessary to provide suitable access to the bus stops serving the site. The off-site works are on highway land have the support of the local highway authority and I am satisfied that there is a realistic prospect of them being delivered.
73. A condition requiring approval of the standards of roads, cycleways and footpaths serving the development is necessary in order to provide satisfactory standards of access. I have not included reference to compliance with particular highway documents as there is no certainty or guarantee that such relevant documents would be in place at the time of development. Requiring details to be submitted for approval will provide the opportunity to ensure that the proposals are satisfactory. This condition would also incorporate gradient detail so a separate condition is not necessary regarding gradients.
74. A condition requiring details of car and cycle parking is necessary to provide appropriate provision for cars whilst also encouraging more sustainable forms of transport. For the same reasoning as above, I have omitted the reference to the Council's documentation in this respect. A travel plan condition is also necessary to promote sustainable means of transport. Details of bin storage and refuse points are necessary to ensure appropriate refuse provision is made and that it is not unduly unsightly. A Construction Management Plan is necessary in order to appropriately manage and mitigate impacts during the construction phase of the development. I have incorporated site working hours into this condition so a separate condition to this effect is unnecessary.
75. Conditions relating to energy are required to provide for an energy efficient development and a reduction in carbon emissions.
76. I have not imposed the suggested condition regarding mobility. The policies listed in the reason for the suggested condition do not refer to the relevant optional requirements in the Building Regulations. Nor do the policies clearly state what proportion of new dwellings should comply with the requirements. This is contrary to advice in the Planning Practice Guidance and I therefore consider this condition to be unnecessary and unreasonable.

77. Some conditions require details to be approved before development takes place. This is necessary in the case of conditions 5, 9, 10, 17, 19, 20 and 23 because these conditions may affect the design of the scheme. It is necessary in the case of conditions 6, 12, 13, 14, 16 and 21 because these conditions address and may relate to impacts during construction. In the case of conditions 7 and 8 it is necessary for both the above reasons.

Conclusion

78. For the reasons given above I conclude that the appeal should be allowed.

David Cliff

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 5072/PL01 (Site location plan), 22171_08_010_07.3 Rev D (Access design/offsite works), and 5072/PL08 B (Parameter Plan – Above Ground Development).
2. Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
3. Application for the approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
4. The development hereby permitted shall begin before the expiration of 2 years from the date of approval of the last of the reserved matters approved.
5. Details submitted in respect of reserved matters shall include details of access within the site for vehicles, cycles and pedestrians including the positioning and treatment of access and circulation routes and how these routes are compatible with the surrounding access network. The development shall be carried out in accordance with the approved details.
6. No construction works shall take place until a waste audit scheme has been submitted to and approved in writing by the local planning authority. This scheme shall demonstrate that in both the construction and operation phases of the development, waste will be minimised as far as possible and that such waste as is generated will be managed in an appropriate manner. The development shall be carried out in accordance with the approved scheme.
7. The reserved matters application for landscaping shall be submitted with a Landscape and Ecological Management Plan for written approval by the local planning authority, which shall include full details of the protection and management of habitats and species, and incorporate opportunities for the enhancement of existing and the creation of new habitats on site. The development shall be carried out in accordance with the approved details.
8. The reserved matters application for landscaping shall include individual planting plans for each phase or sub phase and including the following:
 - a) A survey of existing trees, shrubs and hedges including their species, location, height, spread and condition and indicating those which are to be retained and those to be removed;
 - b) Planting proposals including location, species, number, density and planting size;
 - c) A landscaping scheme for the attenuation ponds;
 - d) A scheme for the interface area between the A4280 and the northern boundary of the site;
 - e) All hard surfaces;

f) A scheme for works for protective fencing of the retained trees and hedges including working methods in accordance with BS 5837:2012 (or similar replacement standard);

g) A detailed scheme for the equipped play zone; and

h) An implementation and management programme.

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

9. No development shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to the first occupation of any dwelling hereby permitted and subsequently retained thereafter.
10. No development shall take place until details of foul water drainage of the site have been submitted to and approved in writing by the local planning authority, including a timetable for the works. The development shall be carried out in accordance with the approved details and subsequently retained as such thereafter.
11. Details and specifications of any external street lighting or any lighting of other public areas shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development. The details shall include the type, quantity, height and location of lighting (including contour plans and technical specifications). The details shall also include an identification of those areas/features of the site and its surrounds that are sensitive for bats including breeding sites, resting places and foraging routes. The development shall be carried out in accordance with the approved details and thereafter retained as such.
12. No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with an archaeological mitigation strategy which has been submitted to and approved in writing by the local planning authority. The strategy shall include:
 - a) Fieldwork and/or preservation of archaeological remains;
 - b) A post-excavation assessment report (to be submitted within six months) of the completion of fieldwork);
 - c) A post-excavation analysis report, preparation of site archive, completion of an archive report and submission of a publication report (to be completed within two years of the completion of fieldwork).

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

13. No development shall take place until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it

- originates on the site. The assessment shall include a) a survey of the extent, scale and nature of contamination and b) the potential risks to human health; ground waters, surface waters and ecological systems.
14. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
 15. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
 16. No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing within 28 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 28 days and approved in writing within 28 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.
 17. No development shall take place until details of the standards (including design, gradients, visibility, geometry, materials and drainage) to which the roads, footpaths and cycleways serving the development are to be constructed have been submitted to and approved in writing by the local planning authority. No house shall be occupied until the roads, footpaths and cycleways have been constructed in accordance with the approved details.
 18. The development shall not be occupied until dropped kerb pedestrian crossings are provided to link the bus stops on either side of Deep Spinney.
 19. No development shall take place until a scheme for car and cycle parking with access thereto has been submitted to and approved in writing by the local

planning authority. The approved details shall be implemented and made available for use before the development is occupied and the car and cycle parking areas shall not thereafter be used for any other purpose.

20. No dwelling shall be occupied until bin storage and collection points are provided in accordance with details which shall be submitted to and approved in writing by the local planning authority. The bin storage and collection points shall thereafter be retained for their intended purpose.
21. No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. This shall include the following:
- a) The parking of vehicle and access to/from the site;
 - b) Loading and unloading of plant and materials used in the development;
 - c) Storage of plant and materials;
 - d) Temporary lighting, including levels of illumination, means of shielding and times of operation;
 - e) The erection and maintenance of a security hoarding;
 - f) Wheel washing facilities and measures to control the deposition of mud on surrounding roads;
 - g) Any footpath/footway/cycleway closures needed during the development;
 - h) Traffic management measures, including the times, routes and means of access/egress for construction traffic and delivery vehicles including the import of materials and removal of waste from the site; and
 - i) Hours of site construction works.

The approved CMP shall be adhered to throughout the entire construction process.

22. No part of the development hereby permitted shall be occupied until a detailed travel plan has been submitted to and approved in writing by the local planning authority. The travel plan shall include:
- a) A baseline survey of site occupants or a timetable to undertake a baseline survey of occupants to establish current/proposed travel patterns;
 - b) Details of existing and proposed transport provision and facilities;
 - c) Proposals and measures to minimise private car use and facilitate walking, cycling and use of public transport;
 - d) A detailed set of travel plan targets;
 - e) A detailed action plan including specific timetabled measures;
 - f) Proposals to monitor and undertake annual reviews of the travel plan and its targets for a period of 5 years;
 - g) Details of site specific marketing and publicity information to be provided to all occupiers of the development;
 - h) The appointment of a travel plan coordinator who will be responsible for the preparation and submission of the action plan and the 5 annual reviews.

The approved travel plan shall be implemented in accordance with the timetable within it.

23. No development shall take place until an energy audit (including timetable) has been submitted to and approved in writing by the local planning authority. The

energy audit shall demonstrate how the development will achieve a 19% improvement in the Dwelling Emission Rate over the Target Emission Rate as defined in the Building Regulations Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013) and detail the supply of at least 10% of energy requirements from decentralised and renewable or low-carbon energy sources provided that this does not make the development unviable. The energy audit shall include:

- a) An assessment of predicted carbon dioxide emissions of the development once occupied;
- b) A review of alternative methods for reducing the predicted carbon emissions of the development once occupied and their anticipated effectiveness;
- c) Proposals for measuring the effectiveness of the chosen methods for reducing the predicted carbon dioxide emissions of the development once occupied;
- d) Consideration of how the layout, orientation, design and materials used in the development can affect the consumption and use of energy;

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

24. No building shall be occupied until an energy statement has been submitted to and approved in writing by the local planning authority. The energy statement shall include:

a) An assessment of the actual effect on carbon dioxide emissions demonstrating the measures previously agreed as part of the energy audit have i) achieved a reduction of at least 19% in carbon emissions below the normal requirement set by the Building Regulations and ii) provided the supply of at least 10% of energy requirements from decentralised and renewable or low-carbon energy sources (provided that these requirements have not been proven to make the development unviable).

b) A statement of how the layout, orientation, design and materials used in the development have been influenced by the energy audit.

25. No part of the development shall be occupied until the site access, visibility splays and off-site highway works shown on drawing ref. 22171_08_010_07.3 Rev D have been completed. All parts of the visibility splays shall thereafter be kept free of obstruction above the height of 0.6m.

5. A1 version of access design/offsite works plan (22171_08_010_07.3)
6. Appellant's opening statement
7. Council's opening statement
8. Biddenham Parish Council's Transport Assessment Review (May 2019) submitted pursuant to the 160 dwelling scheme
9. Urban Open Space – Designation Reasons
10. Council's viewpoint photographs showing development areas
11. Council's witness qualifications
12. Council's methodology for indicative visual overlays
13. Appellant's witness qualifications
14. Appeal decision ref: APP/K0235/W/18/3202507 (Biddenham House, Gold Lane)
15. Agreed site visit viewpoint locations
16. Biddenham Conservation Area Character Appraisal and Management Plan
17. Emerging Policy 19 modifications
18. Secretary of State's Decision Refs: APP/F5540/W/17/3180962 & APP/F5540/Z/17/3173208 (Land at Chiswick Roundabout)
19. Draft s106 obligation
20. Suggested condition no.31 (accessibility within the site)
21. Emerging Policy 55 (energy efficiency)
22. Justification and methodology for S106 healthcare contribution
23. Suggested replacement conditions relating to site access and off-site works
24. Council's closing submissions
25. R (oao Cherkley Campaign Ltd) v Mole Valley DC [2014] EWCA Civ567
26. Crane v SSCLG [2015] EWHC 425 (Admin)
27. Appellant's closing submissions

DOCUMENTS SUBMITTED FOLLOWING THE INQUIRY

1. Completed s106 agreement dated 19 September 2019