



Appeal Decision

Inquiry opened on 28 July 2022

Site visits made on 28 July & 27 September

by Mrs J Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2022

Appeal Ref: APP/K0425/W/22/3296128

Land to the rear of 20 Wycombe Road, Holmer Green, High Wycombe, HP15 6RY, 489803, 196518

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Inland Ltd against Buckinghamshire Council - West Area (Wycombe).
 - The application Ref 18/07194/OUT, is dated 31 August 2018.
 - The development proposed is Outline application (including details of access and layout) for the erection of 101 dwellings with all other matters reserved.
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by Inland Homes Ltd against Buckinghamshire Council. This is the subject of a separate decision.

Preliminary Matters

3. The Inquiry was scheduled to open on 26 July as a face to face event however due to the COVID status of a key participant was switched to be conducted virtually. Prior to the start date, Rule 6 parties strongly objected to a virtual event. Following consideration of those objections the opening was delayed in order that the Inquiry could be conducted face to face opening on 28 July 2022. On the first day openings and evidence from two of the four Rule 6 parties was given however later that day it became apparent that members of the public who, due to the content of correspondence they had received from the Council had a legitimate expectation to join and participate in the event virtually. Site notices had also made it plain that the event would be available virtually. As that option was not available to them the Council explored whether it could stream the remainder of the event online but was unable to do so for capacity reasons.
4. In the interests of fairness, and given the notifications that had been sent, the Inquiry was adjourned. It was subsequently resumed as a hybrid event on 26 September with participation both face to face and remotely via Teams. In total the Inquiry sat for a total of seven days on 28 and 29 July and between 26 to 30 September 2022.

5. The Appeal Site straddles the boundary of two former District Councils, Chiltern and Wycombe. The majority of the appeal site is located within Hazlemere Parish which lies within the former Wycombe District Council area. The access road, and the existing dwelling at 20 Wycombe Road are located within Holmer Green, within the former Chiltern District Council area. Consequently, the Appeal Site also encompasses land within two Parish Council areas, Hazlemere within the former Wycombe District Council area, and Little Missenden, within the former Chiltern District Council area. Holmer Green, the closest settlement to the proposed development, is within Little Missenden Parish Council.
6. Planning applications were originally made to Wycombe District Council and Chiltern Council in 2018 as the appeal site area includes land in both districts. The Buckinghamshire authorities of Aylesbury Vale, Chiltern, South Buckinghamshire, and Wycombe, along with Buckinghamshire County Council, became a Unitary Authority known as Buckinghamshire Council (The Council) in April 2020 and the application made to Chiltern¹ was subsequently withdrawn on 5th August 2020.
7. The original planning application was made in outline for 103 dwellings with access, layout and scale to be determined. The proposal was amended in June 2020, May 2021, August 2021 and January 2022. The amendments in May 2021 resulted in scale being removed from consideration. In January 2022 the scheme was further amended to "*Outline application (including details of access & layout) for the erection of 101 dwellings with all other matters reserved*" resulting in the loss of 2 units from the layout. As such the revised description is reflected in my banner heading above. The amendments were referred to in the officer report following consultation by the Council and I am satisfied that there would not be any prejudice to participants in considering the development on the basis of the revised description.
8. The application is in outline with all matters save for access and layout reserved for subsequent approval. Drawings, 18083-S101B (Location Plan); 18083-C201B & 18083-P202M (Site Layouts); and 141278/A/07 (Site Access Alignment) are for consideration with all other plans taken for illustrative purposes only.
9. As the appeal is against non-determination there is no decision notice. Initially the appeal scheme was deferred by the Councils Strategic Sites Committee² to be considered further once a development brief had been produced. Following the lodging of the appeal the Council considered the scheme again resolving, against their officer recommendation, to refuse permission and offering putative reasons for refusal. Two reasons were identified³. The first reason related to lack of comprehensive development, lack of an appropriate sense of separation between Hazlemere and Holmer Green, and failure to meet key design principles required to achieve high quality sustainable development contrary to the Development Plan and the National Planning Policy Framework (The Framework)⁴.
10. The second putative reason for refusal focused on the absence of an obligation under Section 106 of the Planning Act (s106) to secure contributions or direct

¹ PL/18/3121/OA

² On 24 February 2022

³ Strategic Sites Committee 12 May 2022

⁴ Page 4 and 5 of CD77

provision on a range of matters including affordable housing, the definition of local criterion related to affordable housing, the level of contributions for highways, education, public open space including equipped play, sustainable urban drainage provision, connectivity between the appeal site and the remainder of the HW8 allocation (to the south), biodiversity including offsetting contributions and detailed ecological management plan, the provision of a management company and the provision of custom and self-build housing within the site.

11. The legal agreement covers the matters referred to above and a signed version of the agreement was received after the Inquiry closed within the timeframe specified. I am satisfied that the provisions of the obligations would be necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework⁵ and Community Infrastructure Levy Regulations⁶. I have taken the planning obligation into account in reaching my decision.
12. Four groups were afforded Rule 6 status at the Inquiry⁷. Little Missenden Parish Council (LMPC), Holmer Green Village Society (HGVS), Hazlemere Parish Council (HPC) and Holmer Green and Hazlemere Neighbourhood Development Focus Group (HG&HDFG) gave evidence opposing the appeal. These representations included matters which were not contested by the Council or the highway authority relating to the capacity and safety of the access and the impact of the development on existing trees, matters to which I will return.
13. I held a Case Management Conference (CMC) online on 16 June 2022 which was attended by the main parties and representatives of the four Rule 6 parties. At the CMC the following matters were covered: the main issues were identified, how the evidence would be dealt with at the Inquiry; the submission of statements of common ground; the listing of core documents; the timetable for submission of documents along with other procedural matters. A second CMC was held on 11 August where the focus was the technical arrangements for the delivery of a hybrid Inquiry.
14. The status of the Hazlemere Neighbourhood Plan (HNP) changed during the Inquiry as it was published for Regulation 16 consultation⁸. Evidence was given that the HNP seeks to deliver sustainable development by protecting and improving green infrastructure, delivering zero carbon buildings, and promoting sustainable transport, in respect of the appeal site it seeks to articulate a greater level of detail in relation to the site and on specific subject matters. Local Councillors in their representations advised that the emerging plan should be given particular attention in respect of climate change. Whilst the objectives of the plan are acknowledged, as an emerging plan at an early stage of preparation the HNP does not yet form part of the development plan and in accordance with paragraph 48 of the Framework it, can be afforded only limited weight in decision making.
15. A Statement of Common Ground (SOCG) was agreed between the appellants and the Council before the Inquiry opened in July. An addendum to that SOCG

⁵ Paragraph 57

⁶ Regulation 122

⁷ Accorded Rule 6 (6) party status under the Inquiry Procedure Rules.

⁸ 28 September 2022

was also agreed in August 2022 updating the Inquiry on the Hazlemere Neighbourhood Plan and the progress of the HW8 Development Brief.

16. The appeal site was previously designated as Green Belt. However, upon adoption of the 2019 Wycombe District Local Plan (Local Plan) the appeal site and adjacent land was identified for development as a housing site. The site is no longer subject to any Green Belt⁹ designation and as such Green Belt issues are not for consideration in this appeal.
17. I undertook an accompanied site visit during the initial part of the Inquiry in July and again on 27 September, viewing the site and surrounding area to an itinerary agreed between the main and all Rule 6 parties. I observed, as was requested by Rule 6 parties the extent of traffic passing the site at school closing times. I also visited the general area prior to the Inquiry opening to look at the surroundings from the points indicated by the Council.

Main Issues

18. Having regard to these matters and taking into account the procedural matters outlined above the main issues are:-
 - a) The effect of the development on the character and appearance of the area in the context of the requirements of Policy HW8 of the Local Plan part 1 a) (achieving a sense of separation between Hazlemere and Holmer Green).
 - b) Whether the appeal scheme achieves comprehensive development within Wycombe district as set out in part 1c) of Policy HW8.
 - c) The status of the development brief covering the land subject to Policy HW8.

Reasons

Policy background

19. The appeal site forms the northern part of a housing site allocated by Policy HW8 of the Wycombe District Local Plan 2019 (Local Plan). Consequently, the site is accepted as a sustainable location suitable for the quantum of housing development proposed, subject to meeting the requirements of the policy criteria. It was acknowledged by the Council and the appellants that the development of this appeal site would unlock the wider delivery of the HW8 allocation. Notwithstanding this, compliance with two aspects of Policy HW8 are at issue. Firstly, the requirement to maintain a sense of separation between the settlements of Hazlemere and Holmer Green¹⁰, and secondly the requirement to provide a comprehensive development of the site within the Wycombe district¹¹. I shall deal with these two matters separately.
20. Policy HW8 requires that development maintains a sense of separation between Hazlemere and Holmer Green. The parish boundaries of which run along the northern boundary of the appeal site (save for the proposed access). The layout set out in Fig 14 of the Local Plan¹² which accompanies policy HW8, whilst marked indicative, makes clear where existing trees and woodland are located. These physical features form the northern boundary of the appeal site

⁹ Wycombe District Council Local Plan, Inspectors Report 10 July 2019 para 137

¹⁰ (Criterion a) of Policy HW8

¹¹ (Criterion c) of Policy HW8

¹² Page 108 of the Wycombe District Council Local Plan

and separate existing residential development in Holmer Green from the open part of the appeal scheme¹³.

21. The western and central portions of the appeal site would be developed for housing with the southern corner section left largely undeveloped, other than for the provision of a dry balancing pond to accommodate periods of high rainfall in order to relieve surface water issues. The Council does not object to the principle of residential development on this site. Objections were expressed by some representors which I deal with below.

Character and appearance

22. The layout of the development would be fixed by the submitted plans and whilst landscaping is a reserved matter the impact of the road layout and the positioning of buildings enables the effect on the character and appearance to be clearly understood in the context of the requirement to maintain a sense of separation between the settlements of Hazlemere and Holmer Green. The Inquiry heard that the two parishes had long since merged given that development is contiguous at Watchet Lane and Sawpit Hill which was evident from an aerial photograph¹⁴. However, that element of coalescence predates the requirements of the Local Plan which requires the sense of separation to be maintained between the two settlements.
23. There were differing interpretations of the 'sense of separation' at the Inquiry with the appellants arguing that the Council in its officer report had concluded that the development '*achieves a degree of physical separation between the two parcels of development by providing a distinct and meaningful area of open space to the south of the site which also provides green infrastructure and required on-site strategic open space*¹⁵. However, this reference relates to the separation of parts of the new development at the southern edge of the appeal site and not on the boundary between the two parishes. Moreover, it does not address the requirement of criterion 1 a) of HW8 nor does it recognise the issue of the maintenance of existing vegetation highlighted in the plans accompanying Policy HW8.
24. Local residents highlighted the need for meaningful separation between Hazlemere and Holmer Green and drew attention to the deliberate removal of tree cover within the remnant orchard. Rule 6 parties generally accepted that development would proceed on the site in some form however emphasised that the principles of the Local Plan Policy should be implemented. The appellants explained that the trees which had been removed were in poor condition. Furthermore, the retention of the remnant orchard trees is not specifically referred to in the wording of Policy HW8. The explanatory text in the Local Plan supports the premise that green infrastructure can provide the sense of separation between the two communities¹⁶. Importantly though, it also refers to the site benefiting from important natural features including an orchard and woodland both of which are on the northern boundary of the site. The retention of the remnant orchard would not be addressed by the submitted layout which would undermine the objective of maintaining a sense of separation as it would result in built development on the northern boundary. It is also relevant that a

¹³ Save for the access road

¹⁴ At appendix D to Miss Luis POE

¹⁵ In their committee report to the Strategic Sites Committee on 24 February 2022

¹⁶ Paragraph 5.1.72 Wycombe District Local Plan

- Tree Preservation Order¹⁷ relating to six remaining trees within the remnant orchard is now in place even though this was imposed in response to the tree felling which had taken place.
25. The appellants suggested that the sense of separation was a nebulous criterion¹⁸ and that the Council's evidence tended towards a preference rather than a strong view. Landscape evidence focused on the relationship of the site to the existing settlement though in cross examination the appellants landscape witness conceded that the appeal site did have a role in providing a sense of separation between the two settlements.
26. The central open space to the south of the appeal site would undeniably provide a sense of separation between new development on the two parts of HW8¹⁹. However, it would not achieve the clear requirement for separation between the two parishes in the context of the appeal site. In my judgement and in the straightforward application of the meaning of part 1 a) of Policy HW8, there is a clear requirement for separation on the northern boundary, this is the only part of the appeal site where the two parish boundaries are contiguous²⁰. The term 'maintain' in respect of the existing sense of separation, in my view, requires a tangible, recognisable element of separation to be achieved. This requirement is represented in the indicative layout in Fig 14 of the Plan where existing trees and woodland on the northern boundary are shown as retained with housing development indicated further south. This is further supported in Fig 14 accompanying Policy HW8 and although not part of the policy, in the context of the existing trees and woodland it shows the development within the context of existing natural features on the appeal site, factors not recognised by the appeal layout.
27. The existing woodland and the remnant orchard are not, and would not, be visible in the wider landscape however they remain highly visible from residential properties to the north and west of the site and these features make a significant contribution to the separation of Hazlemere from Holmer Green. The appeal layout does not provide for the retention of existing vegetation on the northern boundary. This would not allow for the retention of the trees, now protected by a preservation order, nor would it make provision for the remnant orchard to be retained, as envisaged by plan which supports Policy HW8 in the development plan. Nor would it allow the remnant orchard to be restored following the loss of a significant area of tree cover. The proposed layout would also be in conflict with objectives contained in Policies CP9, CP10 and DM34 of the Local Plan which together seek to conserve the natural environment and implement measures for enhancement and to improve and use existing green infrastructure. There would be some conflict with Policy DM35, which requires development to improve the character of the area and to show a holistic understanding of the natural context as well as taking a comprehensive approach to site layout and design. Similarly, there would be some conflict with the Adopted Delivery and Site Allocations Plan (for town centres and managing development) (2013) (Site Allocations Plan) Policy DM11 which requires improvement to the green infrastructure network; and to Policy DM14 which requires existing resources to be conserved and enhanced.

¹⁷ served on 27 June 2022

¹⁸ Appellants Closing submission para 29 (Mr Grant)

¹⁹ Appellants Closing submission paras 36.1 to 36.3

²⁰ As shown in the aerial photograph in Appendix D to Mis Luis POE

28. Landscaping is a reserved matter the detail of which is not before me. Even so the new orchard area to the western part of the site adjacent to No 1 Kestrel Drive, which is immediately on the western boundary of the development site, would not provide adequate mitigation for the loss of the remnant orchard either in terms of its size nor location. Neither would it achieve any meaningful sense of separation between the two settlements.
29. Taking all these factors into account and for the reasons outlined the proposed layout would cause significant harm to the character and appearance of the area in conflict with part 1 a) of Policy HW8 of the Local Plan as it would fail to maintain any sense of separation between Hazlemere and Holmer Green.

Comprehensive development

30. The appeal site forms around one third of the HW8 Local Plan allocation. Paragraph 1 c) of that policy requires that schemes '*provide a comprehensive development of the site with Wycombe District*'. The land of the HW8 allocation is held by a small number of owners, the appeal site and the bulk of the remainder being in the ownership of a separate developer Bellway. Their land is currently subject to a planning application for which amendments are currently being sought.
31. The importance of co-ordinated or comprehensive development stems from the need to ensure that Holmer Green facilities are accessible on foot from the southern part of the allocation through this appeal site. The appeal site also needs to provide for adequate pedestrian and vehicular connections for emergency vehicles. This underpins the need to ensure that such connections are fully considered and the relationship between the two is of relevance.
32. It was agreed between the main parties that connections to the remainder of HW8 are essential to ensure sustainable development. The appeal layout indicates three pedestrian linkages, one of which would also provide access for emergency vehicles between the appeal site and the remainder of the HW8 allocation. Nevertheless, as those positions do not match in with the same points on the submitted scheme for land to the south²¹ albeit that scheme is, as yet, undetermined, this lack of synergy undermines the comprehensive development of the overall allocation required by Policy HW8.
33. Written communication from Bellway²² confirmed that the appeal layout would not prejudice their own proposals and a revised layout for the Bellway scheme was submitted in evidence at the Inquiry²³. That layout showed connections to two of the three points indicated in the appeal scheme. However, the Bellway layout has not been accepted as an amendment and it is not certain if it will be. To this extent comprehensive development of the overall HW8 allocation is not secured as the two layouts do not fully align. In respect of the appeal scheme one footpath would result in a dead end were the latest Bellway plan to proceed.
34. I note that the appellants position that the provision of three connections is generous and far from hindering comprehensive development, would provide safe convenient and legible connections²⁴. However, as connections are

²¹ As shown at appendix 8 to Mr Bell POE

²² Appendix 6 to Oliver Bell POE – letter dated 23 June 2022

²³ INQDoc16

²⁴ Appellants Closing submission para 24

required through the appeal site for future occupiers of the development on the southern part of the site to access facilities in Holmer Green, it is necessary to ensure that effective connections are secured between these two sites. Moreover, as the layout of the scheme would be fixed there would be very limited scope to make changes to flex the scheme to fit in with an as yet unknown scheme on the remainder of HW8.

35. The Planning Practice Guidance²⁵ and the Development Management Procedure Order²⁶, indicate that the consideration of any access includes accessibility to land within the site regarding circulation routes both within and beyond the site boundaries. In this context and considering that the appeal site is part of a wider allocation there is a legitimate expectation that the Council should seek to ensure that the development will function effectively as part of the whole HW8 allocation. I do not accept the appellants view that, as there is no physical existing network for the appeal proposal to connect into, it would be perverse to consider connections to the remainder of the HW8 allocation.
36. It is acknowledged that the HW8 policy does not require a single planning application and that in cross examination the Council's witness conceded that her evidence did not explicitly show how the appeal layout would compromise comprehensive development. Notwithstanding this the layout of development to the south is by no means certain and whilst the opinion of Bellway is that their land would not be prejudiced, this was not evidenced or demonstrated by way of any agreed plan or undertaking. Moreover, the Council confirmed that it was not able to clarify whether the revised Bellway layout presented to the Inquiry would be accepted as a revision to the current planning application given that the extent of change may lead to the requirement for a fresh application and effective connections remain uncertain.
37. The Inquiry also heard evidence that the lack of a comprehensive approach meant opportunities have not been taken to co-ordinate the provision of open space. This lack of a co-ordinated approach to the provision of open space and recreation facilities means some provisions would be duplicated rather than co-located on one scheme. In turn this would reduce the flexibility in the use of open space on the appeal site which is already subject to competing requirements for use as sustainable urban drainage. These factors would not secure comprehensive development.
38. While co-ordination need not be hugely complicated it would involve a greater degree of certainty as to the connection routes and the use of the central open space. The amended layouts referred to and the statements that the appeal scheme would not prejudice delivery are insufficient to secure the level of confidence needed that comprehensive delivery across HW8 can be achieved.
39. Put simply, on the evidence before me the arrangements would not secure a co-ordinated approach which is envisaged by the comprehensive development of the site as required by part 1 c) of Policy HW8 which relates to a much larger land area than this appeal site. It cannot be assumed that the selected points intended to provide connections will be utilised by the adjoining site and no certainty that those connections would be effective. There is no substantive evidence that effective connections can be secured to the remainder of HW8.

²⁵ Reference ID: 14-006-20140306 referred to in Opening and Closings by the Council INQDoc 2 and 26

²⁶ The Town and Country Planning (Development Management Procedure) (England) Order 2015 SI 2015 No 595

As such I regard there to be a clear and necessary purpose for the comprehensive development of the HW8 site.

40. Even though the submitted 106 agreement seeks to make provision for connectivity and if necessary, the provision of step in rights, for the reasons outlined above I conclude that there is no certainty that the comprehensive development of the overall allocation required by part 1 c) of Policy HW8 would be secured by this appeal scheme. As such Policy HW8 part 1 c) of the Local Plan would be undermined resulting in conflict with the development plan which requires there to be comprehensive development of the HW8 land within the Wycombe District which in practical terms means the whole of the allocation.
41. In reaching my conclusion on comprehensive development I have had regard to the conclusions reached in a recent appeal decision relating to another part of the allocation fronting Amersham Road²⁷ where the Inspector concluded that the delivery of the HW8 allocation would not be prejudiced by the proposal for eight houses. Nonetheless the considerations in that appeal are not the same as in this scheme in the context of the wider proposals for the bulk of HW8. In any event that decision was dismissed for other reasons and it does not alter my findings in relation to the main issue.

Development Brief

42. The appellants statement of case correctly stated that Policy HW8 does not 'require' the production of a Development Brief for the HW8 allocation. Supporting text in the Local Plan²⁸ indicates that "*A comprehensive approach to the development of the land in Wycombe District is essential for good planning on this site. Preparation of a development brief for the site will be essential to coordinate the detailed planning of the site and this should be used to inform any planning application submitted for the future development of the site*". Even so, the parties agreed that there was no policy requirement for a development brief.
43. The recent completion of the brief has somewhat superseded the initial position of the Council who argued that the brief was needed to set the context for development and would be essential in co-ordinating the detailed planning of the site. The appeal proposal was formulated long before that detail so whilst it will be of help to the formulation of future development it is the detailed wording of Policy HW8 to which I must refer in determining the appeal proposal.
44. It is self-evident that the appeal scheme was not, and could not have been, informed by the development brief given the timeframes involved. It is a matter of fact that the Council deferred its initial decision on the appeal proposal for a brief to be prepared and the Council progressed that development brief in parallel to the appeal and published its final version immediately prior to the resumption of the Inquiry in September 2022.
45. That brief is now adopted and the main parties confirmed in their addendum to the SOCG that the development brief is a material consideration²⁹, this fact is not in dispute.

²⁷ APP/K0425/W/21/3272284

²⁸ Paragraph 5.1.67 page 109 Wycombe Local Plan

²⁹ Inquiry Document 11

46. Nonetheless in the context of this appeal the relevance of the brief is limited as chronologically it could not have set the framework for the formulation of the proposal I have before me. Though it will no doubt have relevance for future submissions. Whilst I must have regard to the content of the brief as the adopted approach of the Council which gives a greater level of detail in interpreting Policy HW8 for the formulation of proposals it cannot overlay additional requirements to Policy HW8 and I have considered the appeal against the content of that Policy and relevant related policies which refer to the treatment of existing natural features. In this regard whilst the status of the Development Brief is now adopted, its content has not been determinative to my findings in relation to this appeal.

Other Matters

47. There is significant feeling in the local community that the vehicular access to the appeal site from Holmer Green should not be the de facto solution for access to the housing allocation. My attention was drawn to a planning decision in January 1988³⁰ where development at Tralee farm was refused on the basis of increased traffic hazard and highway danger in the locality generally and on the basis of loss of amenity to the occupiers of houses on Deanway. That appeal scheme sought to extend an existing cul de sac of six houses which is a substantially different proposal than that before me and as such it does not set a precedent which I must follow.

48. Evidence was given by Rule 6 parties (LMPC, HGVS, HPC and HG&HDFG) that the access onto Wycombe Road was unacceptable, that its proximity to the Wycombe Road/Sawpit Hill junction caused traffic to back up past the site particularly at the beginning and end of a school day. Although the Wycombe Road access would be the only point of access/egress for the appeal site that point of access is shown on the indicative plan supporting the HW8 allocation. Whilst recognising the concerns expressed by the Rule 6 parties about traffic being concentrated on a single access to Wycombe Road, I am satisfied that the appellants highway assessment in terms of its methodology, assessment, and forecasting indicates that the formation of the access subject to the imposition of planning conditions and the completed section 106 agreement, would not compromise highway safety. Moreover, the Highway Authority raised no objection to the appeal scheme and I have no substantive evidence before me which would lead me to a different conclusion.

49. Rule 6 parties focused on the issue of informal surveillance along the first part of the proposed access between Wycombe Road and the main part of the site. This was based on the fact that the first part of the access road would not be overlooked by properties with habitable rooms. Furthermore, that surveillance from the first floor windows of properties on the adjacent cul-de-sac at Deanway would be unlikely to provide any meaningful natural surveillance of the proposed access road. The access into the main development would have a footway on only one side and would not be directly overlooked by existing or proposed dwellings. Even so it serves as the only vehicular access to the development and would have a level of traffic movements and activity associated with 101 dwellings which would limit deficiencies in informal surveillance from occupied properties. The access was identified in the Development Plan as serving the site and the issue of surveillance along what

³⁰ Application No 87/3297/CH made to Chiltern District Council – refused 21 1 88

- would be the principal access has not been subject to any objection from the Police who identified concerns associated with the rear pedestrian accesses/passageways within the main part of the development. This issue is not therefore a matter which would justify resisting the use of the access from the Wycombe Road either in principle or in respect of the proposed layout.
50. Evidence was given on urban design matters however related to the general layout of the site, its points of connectivity and the focal points of the scheme with regard to site layout. As appearance is a reserved matter the visual appearance of the buildings is not before me even though illustrative plans gave some information as to potential street scenes. This matter has not been determinative to the outcome of the appeal.
51. Representations have been made regarding a negative effect on existing residential properties in terms of living conditions, especially those bordering the western boundary of the site which is identified in the Development Plan as a sensitive existing residential boundary. Reference was also made to an easement along that same boundary which, it was argued, would prevent the planting proposals shown on the layout plan from being implemented due to the need to protect the route of the power lines. The appellants indicated that the power lines would be undergrounded along the internal access roads and that this would not limit the proposed planting along that boundary.
52. Whilst the outlook for residents of residential properties along Kestrel Drive and Inkerman Drive and would certainly change, the Council did not raise objection to the proposed facing distances between existing and proposed properties. The provision of boundary treatments and planting would be matters to be resolved through a reserved matters submission along with the detailed placement of window openings which could be dealt with through conditions in the event that permission was to be granted. Even though the western boundary of the site is acknowledged in the Local Plan to be a sensitive boundary, I see no reason, on the basis of the evidence before me to take a different view to the Council on this matter.
53. Local concerns regarding difficulties with water pressure and the lack of capacity for foul water drainage systems to accommodate additional housing have been raised. These are matters which any developer would need to resolve through new mains connections and the appellants and the Council have addressed this matter through the drafting of planning conditions.
54. Representations have been made about facilities in the locality with particular reference to the increased pressure that additional residential development would place on medical services, as there is no local doctors surgery and there is known to be limited capacity in local schools. The Section 106 agreement includes contributions towards education the level of which has been agreed with the Council. In so far as contributions toward medical services are concerned the Council outlined in their committee report that the Buckinghamshire Clinical Commissioning Group (BCCG) had not sufficiently evidenced local need such as would have justified a contribution via the Section 106 legal agreement. Even so the development would be liable for contributions under the Community Infrastructure Levy and the BCCG would be entitled to bid for CIL funding for the provision of primary healthcare infrastructure.

55. Representations were made in respect of a woodland/orchard area beyond the north east of the appeal site which was omitted from the HW8 allocation in the Local Plan. The landowners for that site argue that the omission of that land from the HW8 allocation is inappropriate as to exclude it would mean that the wider HW8 development would not be brought forward in a properly planned and comprehensive manner, moreover it would result in a land locked parcel of land. The land referred to is beyond the appeal site, neither is it within the defined boundary of policy HW8 as indicated in the adopted plan. As such it is not within the remit of this appeal. Decisions about its future being a matter for the Council in the first instance.

Benefits

56. A range of benefits have been outlined and assessed by the appellants and the Council. It was agreed that the provision of affordable and self-build housing would be at a level which would be policy compliant and whilst it would deliver housing to meet a specific local need it would not exceed the level required by the development plan. Consequently, whilst in principle it is reasonable to give substantial weight to such provision it would not *'justify a breach of policy requirements where a policy compliant scheme would also deliver the same benefits'*³¹. This limits the weight that can be afforded to these benefits which, as policy compliant provisions, I afford them neutral weight.
57. Biodiversity net gain would be a benefit and this is not disputed. However measurable net gains in biodiversity are also a requirement of the development plan through Policy DM34 and therefore the benefit carries moderate weight in favour of the proposal.
58. The provision of market housing would be a benefit as would the economic activity associated with the construction of the houses which would bring income into the local area. There is no dispute that the Council can demonstrate in excess of a five year supply of housing and in this context the benefits of market housing and the economic benefits during construction and into the local economy on an allocated site would not generate any more than moderate weight in favour of the proposal.

Conclusion

59. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. Development which would conflict with and undermine the strategy of an adopted development plan and the Framework when taken as a whole would, in planning terms, be harmful.
60. Whilst I have found intrinsic conflicts with Policy HW8 and related conflicts with other policies in the plan relating to existing natural features, from the evidence before me I have not found conflict with Local Plan Policy CP7, which requires infrastructure to support growth; with Policy DM33 relating to managing carbon emissions (transport and energy generation); with Policy DM39 in respect of managing flood risk; or with Policy DM16 of the Site Allocations Plan which sets the open space requirements for new developments.
61. Whilst there would be benefits arising from the development which weigh in favour of the scheme these would not, either individually or collectively,

³¹ Council Closing submissions Mr G Williams

warrant a decision other than in accordance with the development plan when taken as a whole. Consequently, the appeal is dismissed and planning permission is refused.

Mrs J Wilson

INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANTS:

Mr P Tucker KC of Kings Chambers (28 and 29 July)

Mr Gary Grant of Counsel, Kings Chambers (28 to 30 July). He called:

Mr Will Gardner BSc (Hons), MSc, CMLI of EDP-UK as Landscape witness
Mr Colin Pullan BA(Hons) DipUD of Lambert Smith Hampton as Design witness
Mr Oliver Bell BSc (Hons) MSc MRTPI of Nexus Planning as Planning witness
Mr Ian Dix BSc (Hons) MSc CMILT MCIHT of Vectos as Highway witness

FOR THE LOCAL PLANNING AUTHORITY:

Mr Guy Williams, of Counsel, Landmark Chambers – He called

Ms Antonia Lui BSc MSc MRTPI of Buckinghamshire Council as Planning witness

Rule 6 Parties

- i. Little Missenden Parish Council - represented by Mr Alex Breed
- ii. Holmer Green Village Society – represented by Simon Jones and David Russell and Mr Robert Treasure
- iii. Hazlemere Parish Council represented by Paul Fleming
- iv. Holmer Green and Hazlemere Neighbourhood Development Focus Group – represented by Susan Jamson

Representors

Councillor Oliver – Hazlemere Ward

Councillor Gemmell – Hazlemere Ward

Mr Alex Eden

Mrs Mary Kitching (statement read out on her behalf)

ANNEX B: Inquiry Documents

A following is a list of documents submitted during the Inquiry.

- INQDoc1 Opening submissions on behalf of the appellants 28/7
- INQDoc2 Opening submissions on behalf of the Local Planning Authority 28/7
- INQDoc3 Opening submissions Little Missenden Parish Council – Mr Alex Breed 28/7
- INQDoc4 Opening submissions Holmer Green Village Society – Mr Simon Jones 28/7
- INQDoc5 Opening submissions Hazlemere Parish Council – Mr Paul Fleming 28/7
- INQDoc6 Opening submissions Holmer Green and Hazlemere Neighbourhood Development Focus Group – Mrs Susan Jamson 28/7
- INQDoc7 Combined Notes of Evidence given by Mr Breed and Mr Jones 01/09
- INQDoc8 CIL compliance Statement 22/9
- INQDoc9 Letter from Sarah Green MP dated 23/9
- INQDoc10 Consultation distribution Lists from Buckinghamshire Council 23/9
- INQDoc11 Holmer Green - Addendum Statement of Common Ground (including copy of appeal decision APP/K0425/W/21/3272284) received 23/9
- INQDoc12 Map indicating Power line easement along the western Boundary of the appeal site – received from Holmer Green and Hazlemere Neighbourhood Development Focus Group -23/9
- INQDoc13 Hazlemere Neighbourhood Plan Submission Version 26/9
- INQDoc14 Buckinghamshire Council Costs response from Mr G Williams 26/9
- INQDoc15 Statement by Mr R Treasure and accompanying documents 23/9 supporting Holmer Green Village Society (Rule 6 Party)
- Draft local Plan consultation responses August 2016
 - Little Missenden Parish Council letter objecting to the scheme dated 19 September 2018
 - Statement of Consultation on Wycombe District Local Plan March 2018
 - Statement of Consultation – Appendix 1 – Bodies and individuals who were invited to make representations under Regulation 18
 - Statement of Consultation – Appendix 2 - List of events outside formal consultation
 - Statement of Consultation on the Wycombe Local Plan April 2013 – Appendix 3 - Summary report
 - Statement of Consultation Appendix 4 – Community Conversations report – August 2013
 - Statement of Consultation Appendix 5 – Options consultation events feedback July 2014
 - Statement of Consultation Appendix 6 – Options consultation Feedback report October 2014

- Statement of Consultation Appendix 7 – Feedback report
Development Management
- INQDoc16 Bellway Presentation Planning layout 022103-BEL Rev B received on 28/9
- INQDoc17 Revised schedule of conditions - 29/9
- INQDoc18 Updated legal agreement revised drafts 26/9 and 28/9/22
- INQDoc19 Revised itinerary for site visit
- INQDoc20 Representation by Mrs Mary Kitching (read to the Inquiry on her behalf)
- INQDoc21 Adopted Development Brief for HW8 – Buckinghamshire County Council 23/9
- INQDoc22 Schedule of changes to HW8 23/9
- INQDoc23 Delegated Authority for the adoption of the HW8 Development Brief 27/9
- INQDoc24 Councillor Mark Dormer representing Penn Wood and Old Amersham submitted written statement 30/9
- INQDoc25 Updated Costs application from the appellants 30/9
- INQDoc26 Closing submissions on behalf of the Local Planning Authority 30/9
- INQDoc27 Closing submissions of Little Missenden Parish Council – Mr Alex Breed 30/9
- INQDoc28 Closing submissions of Holmer Green Village Society – Mr Simon Jones 30/9
- INQDoc29 Closing submissions of Hazlemere Parish Council – Mr Paul Fleming 30/9
- INQDoc30 Closing submissions of Homer Green and Hazlemere Neighbourhood Development Focus Group – Mrs Susan Jamson 30/9
- INQDoc31 Closing submissions on behalf of the appellants 30/9
- INQDoc32 Councillor Mark Dormer representing Penn Wood and Old Amersham submitted written statement on the last day 30/9

Documents received after the close of the Inquiry

- INQDoc32 Completed legal agreement - in 4 parts 14/10