
Appeal Decision

Site visit made on 1 February 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/K0235/W/22/3306542

Land west of Pavenham Road, Oakley MK43 7SY

- 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 Land Allocation Limited against Bedford Borough Council.
 - The application Ref 22/00744/MAO, is dated 29 June 2022.
 - The development proposed is outline application for residential development including access, with all other matters reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the application form. Although this does not specify the number of dwellings proposed, based on the appellant's submission, the scheme is intended to provide up to 12 dwellings. I have proceeded with the appeal on this basis. Furthermore, if the appeal were to succeed, the number of dwellings could be specified by a condition.
3. The application is made in outline with all matters reserved apart from access. I have considered the appeal on this basis. All plans have been treated as indicative unless related to the access arrangements.
4. Since the submission of the appeal, the Council's Local Plan Review, required under Policy 1 of the Bedford Borough Local Plan 2030 ('BBLP') has been submitted to the Secretary of State for independent examination. This was submitted on 12 January 2023, within the three-year timescale within Policy 1 of the BBLP.
5. The Council has confirmed that it has a 5-year housing land supply. The appellant argues that the housing need for Borough is soon to significantly increase through the submission of the Local Plan 2040 and that this could see the Council unable to demonstrate a deliverable five-year housing land supply. However, because the local plan review is at examination stage and the final outcome of this is undecided, I attach limited weight to this. Therefore, I have proceeded on the basis that the Council can demonstrate a 5-year housing land supply.
6. A signed and dated Unilateral Undertaking ('UU') was submitted during the appeal. This sets out obligations intended to provide affordable housing and public open space. I shall return to the UU in my Decision.

Main Issues

7. Although there is no formal decision from the Council, it has offered putative reasons for refusal. Based on these, the main issues are:
 - Whether the development is in a suitable location for housing, having regard to the development plan and the effect of the proposal on the character and appearance of the area; and,
 - Whether the proposal makes adequate provision for affordable housing, informal and amenity green space, equipped/natural play areas and outdoor sports.

Reasons

Suitable location for housing

8. The appeal site comprises a rectangular section of a larger arable field. This is located adjacent to but outside the defined 'Settlement Policy Area' ('SPA') boundary of the rural service centre of Oakley.
9. Accordingly, for the purposes of the BBLP, the appeal site is located in the open countryside. Development in such locations is addressed by Policy 7S of the BBLP which seeks to control residential development outside SPAs, in the interests of safeguarding the character of settlements and the countryside. Nevertheless, this Policy does support a number of exceptions, which are subject to certain requirements.
10. One of the exceptions is where the proposal accords with BBLP Policy 67 - Affordable housing to meet local needs in the rural area. This Policy states that exceptionally, planning permission will be granted for residential development on sites where at least 60% of the gross internal area (including garages) of the homes proposed provide affordable housing to meet identified local needs. The appeal scheme is intended to provide for 60% affordable housing based on the Gross Internal Area of the dwellings and any garages, equating to 7 dwellings.
11. Policy 67 of the BBLP, then goes on to state that: 'Within the defined area of need and subject to environmental constraints, sites should be identified in accordance with a specific search sequence: i. Within a settlement with a settlement policy area or within a designated small settlement. ii. Immediately adjoining a settlement with a settlement policy area or a designated small settlement. iii. Within or immediately adjoining the built up area of any other settlement not covered above. It then states that planning permission will only be granted where all of a number of criteria are met. These include the aforementioned locational requirements, and that the local housing need is evidenced by an up to date survey and the number, size, design, mix and tenure of the dwellings are appropriate; the development contributes positively to the character of the settlement, maintains landscape character, does not lead to coalescence with other settlements and protects and where appropriate enhances the historic environment, the proposed site is well related to the built up area of the settlement and the scale of the scheme is appropriate to the structure, form, character and size of the settlement; the affordable housing proposed is to be owned and managed by the parish council, registered provider, community land trust or other similar organisation; and is provided in perpetuity for qualifying local people.

12. The appellant's Housing Need Research report prepared by Aecom ('HNR Report'), seeks to identify the need for affordable housing within the Borough, and then on a pro-rata basis and in light of the emerging Local Plan review end date, predicts a need for 68 affordable rented and 23 to 137 affordable homeownership dwellings in Oakley.
13. The methodology in the HNR report, extrapolates affordable housing need for Oakley on the basis of a Borough wide requirement. In my view, this methodology incorporates uncertainty, given that there are likely to be considerable socio-economic differences between the make-up of a Borough and individual areas. For example, the percentage of people in income deprivation and claiming benefits is considerably higher in Bedford than Oakley. Therefore, I cannot be certain that the affordable housing requirements for Bedford are reflective of Oakley.
14. Moreover, the Oakley Neighbourhood Plan ('NP') was 'made' in March 2020. This includes an affordable housing target, which has been derived through a robust NP making process. This included a specific Oakley Housing Needs Survey ('OHNS') undertaken by BRCC, an independent specialist in Affordable Housing. BRCC determined from the 91 respondents to its Oakley resident-based research questionnaire, that the affordable housing need was also for 15 affordable homes.
15. The appellant argues that the OHNS identified 31 households in need of affordable housing in Oakley who could demonstrate a local connection. Nevertheless, the NP post-dates this and concludes that there is a need for 15 affordable homes up to 2030.
16. In particular, Policy HG1 of the NP includes two allocated sites for residential development. Together, these sites will provide 40 new homes, made up of the Station Road site (30) and the off the High Street site (10). This gives a total of 40 new homes over the Local Plan 2030 period which accords with BBLP Policy 4S. In line with the BBLP Policy 58S (Affordable Housing) 30% (12) of these dwellings would be affordable units.
17. Therefore, and on the information before me, including the 7 affordable homes delivered during the Local Plan 2030 period through the housing development at Parrots Yard off Lovell Road, in total, the number of affordable homes delivered in Oakley over the Local Plan 2030 period would be approximately 19. Even when accounting for affordability concerns raised by the appellant, this is in excess of the Local Plan 2030 target of 15 affordable homes. Also, I see no clear reason why the allocated sites could not secure the requirement for homes of the specific sizes to meet the needs of affordable housing in the area.
18. Given that 7 affordable housing dwellings have already been delivered and on the information before me there are about 6 Oakley residents currently on the Council's Housing Register. This would appear to reflect the 15 affordable homes target for Oakley.
19. Notably, the NP was subject of a review between June and November 2022. The review was also an opportunity to make any necessary changes to affordable housing targets to bring the NP in line with the Local Plan 2040 Affordable Housing targets, should this have been necessary. Having recently been reviewed, the NP carries considerable weight in determining this appeal.

20. Appendix A of the HNR Report details an alternative site search and has included 10 sites in and around Oakley, all of which were submitted as part of the Borough's latest Call for Sites.
21. Notwithstanding the appellant's suitability assessment of these sites, including the appeal site, the site search includes two sites which are within Oakley and have been allocated for residential development under Policy HG1, of the NP. Therefore, the allocated sites are sequentially preferable to the appeal site.
22. Furthermore, BBLP policies 7S and 67, along with HG1 of the NP, all contain additional criteria relating to the effect of development on the character and appearance of the area.
23. Whilst the appeal site is not within any nationally defined landscape designation, the Bedford Borough Council's Landscape Character Assessment 2014, identifies the appeal site as being within the 3B (Oakley-Great Ouse Limestone Valley) Landscape Character Area. This area is characterised by the Great Ouse Valley with a mixed land use of arable farmland and pastureland in geometric fields enclosed by hedgerows with some hedgerow trees. There is a dispersed settlement pattern made up of villages with a historic core typically located at main transport nodes, surrounded by modern development separated by swathes of open countryside with dispersed farmsteads and small settlements.
24. The general settlement pattern of Oakley conforms with the above Landscape Character Area with development mainly confined to High Street, Church Lane and Station Road and generally comprising of single depth ribbon development on its outskirts infilled with perimeter block development. The wider setting of the village is largely characterised by agricultural fields with limited pockets of ribbon development and agricultural hamlets, with the River Great Ouse to the north, south and west, and the Railway and A6 to the east.
25. In particular, from along Pavenham Road, extensive views of the site and swathe of countryside beyond can be seen across the drive of the dwelling to the south of the appeal site along Pavenham Road. This dwelling creates a clear and definitive edge to the built form of Oakley and coincides with the edge of the built form on the opposite side of the road, which is largely limited to residential development at The Furlong.
26. Beyond The Furlong to the north are mainly allotments which incorporate some small sheds and the Linch Furlong Nature Reserve. Both these areas are free of any significant development. In particular, these areas which surround the Stafford Bridge, form part of 'Locally significant landscape area 3' as shown in the NP. Because of its proximity and visibility from these areas, the appeal site forms part of the setting to the locally significant landscape. Policy LE1 of the NP seeks to maintain the open character of these areas and sites within their setting.
27. The long stretch of hedgerow fronting the site, which corresponds to that on the opposite side of the road, is also a prominent and attractive feature that further helps to demonstrate a change from the built form to the open countryside. When viewed from the north, the site provides an open buffer between the built form, the river, and Stafford Bridge.

28. Together, with the allotments and the Lynch Furlong Nature Reserve, the appeal site contributes to a strong rural and verdant appearance, on the approach to the settlement from the north, and on leaving the settlement travelling north.
29. Most notably, public views to the site occur from along Pavenham Road which provides local access into Oakley. The interface of the appeal site in views from this road, comprises the existing hedgerow and gaps in this, which reveal the site's general openness.
30. For the above reasons, the appeal site positively contributes to the setting of the locally significant landscape and aligns with the prevailing intrinsic character of the countryside to the north. Furthermore, because of its undeveloped nature, it makes an appreciable contribution to the openness and tranquillity of the rural character of the area. Together, these elements reinforce the settlements rural character.
31. Although layout is a reserved matter, based on the appellant's submissions it is reasonable to conclude that the new dwellings would be set-back from the highway and arranged to align with the existing development along Pavenham Road. Nevertheless, given that the development would be served off a single access, this would result in the creation of a cul-de-sac style development, which would not reflect the prevailing pattern of development on this side of Pavenham Road, where individual dwellings are largely served by individual access points.
32. Whilst there are cul-de-sacs on the opposite side of the road, these are bounded by the railway line and allotments. As such, these are different to the appeal site, which is open to the remainder of the larger field on two sides. Consequently, the proposed development would appear as an uncharacteristic cul-de-sac adjunct, which would neither integrate nor complement, the existing ribbon development along this side of Pavenham Road.
33. NP Policy HG1, also includes criteria for the consideration of housing outside the SPA. Because the appeal site is bound by development on one side, development here would therefore fail one of the requirements of this Policy, which is that the proposal cannot be considered as 'infill' within an existing housing row or cluster.
34. Overall, the proposal would introduce major development and associated built form and parking areas, on a site which is free of any significant development. Therefore, development here would encroach into the countryside, reduce its openness and bring the built extent of the settlement edge closer to the Great River Ouse.
35. I acknowledge that the proposed development would be screened to an extent, from medium and long-distance views because of local topography, intervening landscaping, and the existing built form or a combination of these factors. Despite this, there are likely to be views towards the rooftops within the development from a part of the Lynch Furlong Nature Reserve. Also, to an extent the development would be visible from a section of the John Bunyan National Trail public right of way, which runs across fields to the north of the site.
36. The access to the site would be new and engineered, and part of the hedgerow would have to be removed to accommodate this and to facilitate appropriate sightlines. The creation of this feature would allow views into the development

site, diminishing its current contribution to the verdant street scene along Pavenham Road.

37. Whilst there is a hedge planted along the shared boundary with the property to the along the south of the appeal site, this offers limited screening at present and is likely to take time to mature. As such, there is no certainty that this would be effective in softening the effects of the development or that this would be retained in perpetuity. Therefore, the sequential views across the south-east corner of the appeal site from Pavenham Road would to an extent be affected by the new development and this would dilute any views of woodland within the river valley beyond.
38. Although indicative at this stage, new landscaping is proposed. Based on the appellant's submissions, this includes, augmenting the existing hedgerow along Pavenham Road and the creation of woodland within a landscape buffer to the northern boundary adjacent to the river valley. This is intended to soften the setting of the John Bunyan Way and Great River Ouse valley. Furthermore, native-hedgerow and orchard with wildflower meadow would be included along the western boundary which seeks to enhance the settlement edge and improve its relationship with the rural landscape. However, the proposed landscaping along the northern and western boundaries would not relate to any existing field boundaries and this in itself would appear conspicuous.
39. Moreover, the proposed landscaping would take time to establish. In particular, to match that which fronts the appeal site. Therefore, there is no certainty that this would fully address visual impacts, particularly in views from along Pavenham Road and more distant views from the north.
40. I have also taken account of the proposal for new internal footpaths within the development, which are intended to link any internal open space areas to the adjacent footpath network. Given that this application is in outline, the full details of these are not available at this stage and therefore attract limited weight.
41. Irrespective of its final form, the extent of major development proposed would result in an erosion of part of the setting to the locally significant landscape area and the rural edge of the village. This would also represent a sizeable encroachment into the countryside. This, along with the introduction of activity associated with people and vehicles, and lighting would introduce a degree of urbanisation and erode the tranquillity associated with the site. In combination, these factors would undermine and detract from the rural setting of Oakley and dilute the experience of its approach and surroundings. Therefore, the proposal would have an adverse effect on the character and appearance of the area.
42. Drawing on the above reasons, I am not convinced by the appellant's evidence of local need. Irrespective of this, the NP has already identified local requirements for affordable housing and includes allocated sites which are sequentially preferable to the appeal site. Therefore, the proposal does not meet all the criteria under Policy 67 of the BBLP. As such, this would not meet the requirements for development outside a SPA with regard to BBLP Policy 7S and NP Policy HG1. Consequently, the proposal would conflict with BBLP policies 3S and 4S, which establish the spatial strategy for the borough and the distribution of housing. Indeed, Policy 3S seeks to deliver the majority of rural growth through neighbourhood plans and whilst Policy 4S sets out a requirement for Oakley of 25-50 dwellings. This policy states that all sites needed to meet these

needs will be identified in neighbourhood plans. As such, the development would not be in a suitable location for housing having regard to the development plan.

43. In addition, the harm to the character and appearance of the area would also conflict with BBLP Policy 3S, which seeks to safeguard the intrinsic character of the countryside and would be contrary to the similar aims of policies 7S and 67 of the BBLP.
44. The scheme also fails to accord with BBLP policies 28S, 29S and 30S and NP policies LE1, HG1, DH1 and DH2. Together, these policies seek to ensure that development contributes positively to the character of the settlement, has a positive relationship with the surrounding area, integrates well and complements local character and resists harm to the setting of locally significant landscape area.

Affordable housing, informal and amenity green space, equipped/natural play areas and outdoor sports

45. As already stated, the proposal is predicated on Policy 67 of the BBLP. Therefore, the submitted UU includes an obligation requiring that at least 60% of the gross internal area (including garages of the Dwellings) to be provided as affordable housing and in accordance with the Affordable Housing Plan.
46. BBLP Policy 58S, states that affordable rents will be 80% of open market rents but a lower percentage should be set where this would preclude access to housing benefit. However, I have not been provided with strong evidence that this would preclude access to those receiving housing benefit. As such, the obligation appears consistent with the development plan, in this regard.
47. Whilst I acknowledge that the 22% shared ownership and 78% affordable housing for rent would satisfy the Borough's broad requirements. Amongst other things, Policy 67 of the BBLP requires that the mix and tenure of the dwellings are appropriate to meet an identified local need, which based on the first main issue has not been clearly evidenced.
48. Furthermore, the supporting text to Policy 67 of the BBLP under paragraph 10.66, requires that such proposals meet identified need for 'qualifying persons'. Qualifying persons are those whose housing needs are not met by the market who live in, or are employed in or have close connections with the relevant village or Parish or an immediately neighbouring parish.
49. Although the UU states that the affordable housing would be provided in association with the Council's 'Allocation Policy' I do not have the details of this and cannot be certain that this incorporates 'qualifying persons' as defined in the BBLP. In any event, there would appear to be no restrictions on 'staircasing' to ensure that the affordable housing is provided in perpetuity as required by Policy 67 of the BBLP.
50. Paragraph 1.2 of Schedule 2 of the UU includes a restriction of market dwellings, where the construction and arrangement of Practical Completion of the Affordable Housing Units, in accordance with the approved Affordable Housing Plan and the planning permission, prior to the occupation of 50% of the market housing units. However, based on the provisions of paragraph 1.3 (ix) of Schedule 2 of the UU, the affordable housing units could be disposed on the open market.

51. For the above reasons, I cannot be certain that in accordance with BBLP Policy 67, the proposed affordable housing would be appropriate to meet an identified local need, and that this would be provided in perpetuity for qualifying local people.
52. Policy AD28 of the Allocations and Designations Local Plan (2013) ('ADLP') outlines that where new housing development is of a type likely to create demand, the Council will require provision of open space and built facilities. The Council's Open Space Supplementary Planning Document ('Open Space SPD') details these requirements. As per Table 2 in 2.2.3 of the Open Space SPD, based on a scheme for 12 dwellings, only informal and amenity green space is required to be provided on site. The definition of 'Public Open Space Plan' in the UU is sufficiently flexible to incorporate informal and amenity green space.
53. In accordance with Table 3 of the Open Space SPD, the proposal for up to 12 dwellings also generates requirements for financial contributions towards equipped/natural play areas, where there is a local deficiency, and for outdoor sports.
54. However, I have not been provided with any evidence of local deficiency for equipped/natural play areas. Therefore, having regard to the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the National Planning Policy Framework ('the Framework'), I cannot be certain that this is necessary to make the development acceptable in planning terms.
55. Nevertheless, the proposal does generate a financial contribution towards outdoor sports, which is calculated according to the number of bedrooms per dwelling. The UU does not provide sufficient detail to address this requirement.
56. Whilst the UU includes the option to transfer the Public Open Space once it has been laid out in accordance with the approved Public Open Space Plan to a management company or the Council, there does not appear to be any mechanism to ensure that the management company would be capable of maintaining any open space in perpetuity together with details of any contingency should the management company fail to do so.
57. In addition, Appendix 2 of the UU contains Appendix 4 of the Open Space SPD, which provides commuted sum costs for various types of open space. However, it is unclear how these relate to the provision of informal and amenity green space. Indeed, the Open Space SPD states that: 'For all other types of facility that are to be provided, this will be determined on a case by case basis.' This has not been undertaken.
58. Therefore, the UU fails to make appropriate provision for the maintenance and management of the proposed informal and amenity green space and fails to secure financial contributions for outdoor sports.
59. On the information before me, there is a requirement for the proposed affordable housing to meet the aims of Policy 67 of the BBLP and for on-site provision of informal and amenity green space and a financial contribution towards outdoor sports. These are all necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, having regard to the requirements of Regulation 122(2) of the Community Infrastructure Levy

Regulations 2010 and paragraph 57 of the Framework. Nonetheless, for the above reasons, the submitted UU fails to fully secure these requirements.

60. Although a previous proposal at the appeal site (Appeal Ref: 3258381) was dismissed, the Inspector concluded that the UU submitted with it was acceptable. That UU is not before me, and on the information before me the dismissed appeal was for a larger scheme and was not predicated on Policy 67 of the BBLP. Therefore, the two proposals are not directly comparable and therefore the previously submitted UU does not alter my findings on this main issue.
61. For the above reasons, the proposal is contrary to the aims of Policy 67 of the BBLP. Accordingly, I also find conflict with BBLP Policy 58S, which amongst other things requires that the size mix of the dwellings should reflect the overall nature of the housing scheme proposed, and take account of the needs set out in the Council's current Strategic Housing Market Assessment and other current sources of housing needs information.
62. The proposal is also contrary to Policy AD28 of the ADLP, and Policy 86S of the BBLP, which states that development proposals will need to clearly demonstrate that the infrastructure needed in accordance with the Council's standards, included in this plan and with reference to Supplementary Planning Documents, can be provided and phased to support the requirements of the proposed development.

Other considerations

63. The delivery of 12 dwellings would positively contribute towards the Council's 5-year housing land supply and this would boost the delivery of homes in a location which has reasonably good access to public transport, services and facilities.
64. The proposal would create employment during the build phase. Thereafter, new residents would enhance or maintain the vitality of rural communities, in accordance with the Framework. To this end, I have taken account of the quantum of economic benefits identified in the appellant's submissions.
65. Although indicative, the proposed landscaping scheme largely seeks to mitigate the effects of the development. Therefore, this does not constitute a particular benefit of the development, particularly given that at present, the appeal site does not harm the character and appearance of the area. However, associated with the landscaping, there would be a notable biodiversity net gain. Nevertheless, such a requirement would be necessary for most major development schemes.
66. Similarly, it would be expected that new dwellings are built to modern building regulations requirements, are energy efficient and located in areas where they reduce the need to travel by private motor vehicles, helping to contribute towards carbon savings and the move to a low carbon economy, contributing towards the climate change agenda. Regardless, these would be environmental benefits.
67. As already stated, the proposal is in outline with all matters reserved except for access. Because of this and based on the appellant's submissions, at this stage, I am satisfied that the proposal does not raise any significant issues in relation to harm to amenity associated with any noise and odour from the sewage pumping

station to the north of the site. I also accept that the proposal does not raise any unresolvable issues in relation to heritage assets, archaeology, ecology, flood risk and drainage, highway safety, residential amenity and that the scheme would be designed to meet with the requirements of Secured by Design.

68. Therefore, whilst the proposal would accord with national and local policies in regard to the above largely technical matters, this would be expected of all development. As such, these are neutral factors that weigh neither for nor against the proposal.
69. Nonetheless, the social, economic and environmental benefits arising from the proposal are important. However, given the modest scale of the development, up to 12 dwellings, I attach moderate weight to these benefits in favour of the proposal.

Other Matters

70. The appellant has reduced the quantum of development and indicated other changes relative to the previous proposal for development at the site, which was dismissed on appeal. Nevertheless, I have considered the proposal before me on its merits and based on the above reasons, found this to be in conflict with the development plan.
71. I have noted the concerns raised by another Inspector in respect of (Appeal Ref 3238048) about the implications of the coronavirus pandemic on the UK's ability to build houses and customer confidence in terms of buying and selling properties. However, the decision on that appeal dates back to February 2020 and therefore is much closer to the start of the coronavirus pandemic. Also, there is no substantive evidence that such factors are still of significance, specifically in respect of Oakley. Therefore, these factors do not alter my findings on the main issues.

Planning balance and conclusion

72. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
73. Overall, in making the planning balance, even if all the above factors in favour of the proposal are taken together, to my mind they are not clearly and demonstrably outweighed by the conflict with the spatial strategy for the area, the harm to its character and appearance and the failure of the scheme to deliver affordable housing aimed at meeting a local need and other infrastructure requirements to make the development acceptable in planning terms, and so do not justify a decision otherwise than in accordance with the development plan.
74. Accordingly, for the reasons stated, I conclude the appeal should be dismissed and planning permission refused.

M Aqbal

INSPECTOR