
Appeal Decision

Hearing held on 4 March 2025

Site visit made on 4 March 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Appeal Ref: APP/J0405/W/24/3351388

Land North of A413, Padbury, Buckinghamshire, MK18 2AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Kler Group Limited against the decision of Buckinghamshire Council.
 - The application Ref is 22/03695/AOP.
 - The development proposed was originally described as up to 81 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the determination of the application the description of the development was altered so that it related to only 79 dwellings. I have determined the appeal on the basis of this amended description.
3. The application was submitted in outline form with the matter of access to be considered at this stage, and all other matters to be reserved for later consideration. I have considered the appeal on the same basis.

Main Issues

4. Since the Council's decision, they have confirmed that further ecological information has been provided which addresses their concerns set out in their fourth reason for refusal. I have no reason to come to a different view.
5. Similarly the fifth reason for refusal related to the lack of a planning obligation to mitigate the impacts of the development in relation to transport, education, health and leisure facilities, and to secure an appropriate amount of affordable housing and public open space. During the appeal a completed planning obligation was provided and completed by all parties. I return to this issue later.
6. The remaining main issues therefore are:
 - i. whether the development in this location would accord with the spatial strategy;
 - ii. the effect of the development on the character and appearance of the area; and
 - iii. the effect on Best and Most Versatile (BMV) agricultural land.

Reasons

Spatial strategy

7. Policy S2 of the Vale of Aylesbury Local Plan (VALP) (2021) sets out the Council's spatial strategy for development. In terms of housing, it identifies the strategic settlements as being the main focus, with proportionately lower requirements for larger, medium and smaller villages. Padbury is identified as a medium village. The policy goes on to identify that housing in medium villages will be at a scale in keeping with the local character and setting, and specifically in respect of Padbury, that at least 52 houses are provided over the plan period. As this number of houses had already been provided by the time of the adoption of the VALP, no allocations are identified.
8. Policy S2 rounds off by saying that development that does not fit with the scale, distribution or requirements of the policy will not be brought forward, unless through a neighbourhood plan (which is not the case here). This is consistent with Policy S3 which says that the scale and distribution of development should accord with the settlement hierarchy, and the spatial vision set out in paragraph 2.4 of the VALP which states that growth in the villages will be proportionate and reflect places' capacity to grow. Likewise, Policy D3, which refers to non-allocated sites, sets out that larger scale development in circumstances where the allocated sites are not being delivered at the anticipated rates (which is the case here), must be of a scale and in a location that is in keeping with the existing form of the settlement.
9. It is not disputed that, as a medium village, Padbury is a sustainable location in which to accommodate some housing growth. However the Council consider that the scale of the proposal is excessive with relation to the character and appearance of the settlement and the range of facilities therein.
10. There are a modest range of facilities in the village including a primary school, two pubs, a butchers, a church and some bus stops. However, for most day to day needs residents need to travel to other larger settlements nearby, such as Buckingham. As such, the 52 dwellings identified for the village is a modest and reasonable amount of growth. An additional 79 homes would represent a substantial increase over and above that considered to be appropriate for Padbury in the VALP. Indeed, the proposal, along with the growth identified in the VALP, would amount to an increase in the number of homes in the village by around a third in recent times.
11. The appellant points out that the majority of the houses required in the larger, medium and smaller villages were already completed or committed at the time of the VALP, and so the amount of growth identified is not reflective of the suitability of the settlements to accommodate growth, but a reflection of what had already been committed. However there are some villages where the housing requirement is made up of both completed or committed development and allocations. This suggests that in villages where it was considered there was scope for housing in addition to what had already been brought forward, provision was made to account for that. Moreover, the strategy, to strongly focus development towards the larger settlements, was clearly found sound as part of the examination of the VALP.
12. Overall the scale of growth that would result from the development would be far in excess of that set out in the VALP and would be inappropriate given the modest range of facilities within Padbury, notwithstanding the effect of the development on

the character and appearance of the area which is considered below. Therefore there would be conflict with policies S2, S3 and D3 of the VALP as set out above.

13. Policy D3 requires large scale development to meet additional criteria in addition to being in accordance with all other applicable policies in the VALP. However even though these criteria would only apply if housing delivery on allocated sites is not as high as anticipated, I do not consider the policy is overly restrictive nor inconsistent with the aims of the National Planning Policy Framework (the 'Framework'), including boosting the supply of housing, given the criteria are either repeated elsewhere in the VALP or are specific to unallocated sites.
14. I find little conflict with policy S1 as the occupants of the development would be integrated with the rest of the village, including via a pedestrian link to the adjacent development on Pavilion Close, and hence access to the facilities within the village would be comparable to that of existing residents. Furthermore, though the development would not provide a mix of uses, the failure of the scheme to do so would, as the Council advised, simply not be a benefit of the proposal, rather than a harm.

Character and Appearance

15. The appeal site is roughly 'L' shaped and currently accommodates two fields, separated by a hedge, which are used as paddocks. There is some evidence of a historic ridge and furrow system in the southern part of the site. Electricity cables cross the site supported by pylons positioned in the adjoining fields. The north, south and east boundaries are demarked by mature hedgerows interspersed with individual trees, as is the boundary between the site and Pavilion Close.
16. The paddocks are used in connection with equestrian facilities which include a menage and stables positioned to the rear of the adjacent dwelling at The Paddocks. The site wraps around these. Other than The Paddocks and the adjacent houses in Pavilion Close, the surrounding land is primarily comprised of large arable fields including to the east and north of the site as well as the land opposite the site on the other side of the A413.
17. In the wider context, the site is identified in the Aylesbury Vale Landscape Character Assessment (LCA) as being within the Undulating Clay Plateau landscape character type, and more specifically within the 'A421 Ridge' landscape character area. Relevant key characteristics and distinctive features of these designations include irregular shaped fields, rolling landform, mixed arable and pasture land, strong hedgerow patterns and ridge and furrow. Pylons are identified as intrusive elements.
18. The use of the site for grazing, distinguishes it from the more built up land to the west, particularly that at Pavilion Drive. Furthermore, the hedgerows along the common boundary with Pavilion Drive, and on the west side of the equestrian development, help to divorce the site from the more intense residential development there and the remainder of the village.
19. In contrast there is a sense of permeability from the site through to the open fields to the east and north. This is largely a result of the sections of hedgerow that are below the overhead electricity cables, which have been kept low. This allows for the openness and rural nature of the paddocks to have a strong relationship with the agricultural nature of the surrounding land, even though it is recognised that the

fields at the appeal site are smaller and more enclosed by the boundary vegetation than the surrounding fields and their equestrian use is more intensive than an arable use in terms of activity.

20. In that context, and as agreed by the parties, the development of 79 houses would inevitably lead to a high degree of change on the site. I consider that even after 10 years, the effect of the change would be significant even assuming landscaping across the site would have matured.
21. In this case the effect on the landscape beyond the site would also be significant. National Grid's guidelines for development near high voltage overhead power lines shows that, for safety reasons, the height of planting under cables needs to be limited. Heights vary depending on how far the planting is from a pylon, with planting being at its lowest in the areas furthest from the pylons where the cables are at their lowest. The point at which the cables cross the east boundary of the appeal site would be close to the midpoint between two pylons and would certainly be an area required to have 'low' planting as described in the guidelines. The guidelines give examples of the sort of planting that would be considered 'low' including hedgerows, grassland, meadows and arable crops. Examples of medium scale planting, which would be too high to be acceptable for the boundary at this point, include garden scale trees such as hawthorn, mountain ash or fruit trees.
22. The indicative landscaping scheme shows low level boundary planting under the cables and the appellant's landscape architect suggested that hedgerows of 5-6 metres high could be provided under the cables which would screen some views of the houses from footpath PAD/7/1, which runs east from the southeast corner of the site downhill towards Adstock. However, I consider the likely acceptable height of planting to be lower than suggested, as currently the hedge under the cables is around 2 metres high and the hedge to either side is around 5-6 metres, which would suggest that planting of 5-6 metres in height has been found to be unacceptably high. As such, whilst it is recognised that landscaping should not completely hide development, I consider the lower height of vegetation that would be necessary under the cables would be likely to allow very clear views through to the houses on the site. Furthermore, because of the acute angle at which the cables cross the boundary, a substantial stretch of the boundary hedge would have to be kept low. Consequently, the conspicuous loss of the pasture, as a key landscape characteristic, would result in a significant harm to the local landscape.
23. Similarly, in visual terms, the full depth of the site is appreciable from footpath PAD/7/1. The pylons and connecting cables which cross the site are a visually detracting, though not uncommon, feature in the countryside. Indeed, to my mind, a more striking feature is the lower height of the managed hedgerow underneath the cables, compared to the natural growth of the trees and hedgerows either side. Currently, over this lower section of hedge, some of the houses west of the appeal site are visible. But clearly the development would introduce housing much closer to the footpath even with the houses set back from the eastern boundary as illustrated on the plans. To that end, it is notable that the effect on viewpoints 4 and 5 in the appellant's Landscape and Visual Impact Assessment are adjudged to be comparable, whereas I consider the effect on viewpoint 4 would be far greater because of its closer proximity to the site.
24. A similar effect would be seen from viewpoints 10 and 11 to the north along footpath PAD/6/1 as the cables continue in this direction and result in a section of

lower hedging along the north boundary of the site. From here, the development would be at a significant distance and there are two fields, separated by a hedgerow, between the viewpoint and the appeal site. Moreover, the houses on Pavilion Drive are clearly visible from here and it is doubtful that the proposed houses would be any more prominent than these. Nonetheless, the development would represent a significant projection of built form, and of the village, eastwards into the countryside. Indeed it would appear far greater in width than the adjoining development at Pavilion Drive.

25. Views of the development from the footpath to the south, such as viewpoint 6, would be limited, partly by the existing mature landscaping along the frontage of the site, and partly by the falling topography of the land in this direction. However, views from the A413 directly in front of the site would be possible through the access road even with the houses shown as being set back as shown on the indicative master plan and hedgerows following the corners of the access. The loss of a section of the vegetation across its frontage, which contributes a verdant character commensurate with its rural surrounds, would also be an adverse effect.
26. Overall, the development would result in substantial harm to the character and appearance of the site itself and the wider area. There would therefore be conflict with VALP policies NE4 and BE2 which together require development to respect the character and features of the site and its surroundings. It would also conflict with VALP policy S3 which aims to ensure that development does not compromise the character of the countryside between settlements. There would be conflict also with part g. of policy D3 which states that development must not have any adverse impact on landscape.

Best and Most Versatile (BMV) agricultural land

27. The Agricultural Statement provided by the appellant assesses that the northern part of the site, totalling about 2.6ha, comprises Grade 2 land, whilst a smaller southern part comprises Grade 3b land. Land categorised as Grade 3a or above comprises BMV.
28. Policy NE7 of the VALP aims to protect BMV and states that where significant development would result in the loss of BMV, planning permission will not be granted, subject to two exceptions.
29. There is no definition of what is considered 'significant development' in this context. Any development involving the loss of less than 20ha of BMV does not require consultation with Natural England. However I understand that a Natural England Technical Information Note refers to the need for surveys to account for smaller losses of under 20ha if they are significant, which suggests losses under 20ha can also be deemed significant. Furthermore the Planning Practice Guidance and guidance produced by the Institute of Environmental Management and Assessment, are no more instructive as they refer to 'large scale' non agricultural development and development of a 'minor magnitude' respectively.
30. In an appeal decision relating to a site in Haddenham, the loss of 4.8ha of BMV as a proportion of BMV within the former Aylesbury Vale area, was not considered to represent a significant development. The current proposal would represent a smaller loss than that. Alternatively, in the context of Padbury, the loss would be more significant. Nonetheless, from my site visit, I saw that Padbury is surrounded

by a number of large fields, including those abutting the appeal site, and in that context the loss of 2.6ha of BMV would not be significant.

31. I recognise that paragraph 187 of the Framework seeks to ensure that soils are protected. Furthermore, footnote 65 sets out how significant development of poorer quality land should be prioritised over higher quality land, and it is noted that the site has been assessed to be of higher agricultural quality than the surrounding land. Policy NE7, as set out above, is consistent in both these regards. Nonetheless, as the development would not be significant, in respect of policy NE7, there would be no conflict with this policy or the Framework.

Other Matters

Housing Land Supply

32. It is not disputed by the parties that the Council cannot demonstrate a 5 year supply of housing land, and the lack of such supply is a material consideration to take into account in favour of the development. The weight to be given to this consideration depends on the extent of the shortfall. The Council suggest the supply is 4 years, which they accept to be a significant shortfall, whilst the appellant suggests only a 2.99 year supply is deliverable. The deliverability of housing on six sites were discussed at the hearing and detailed in the statements, and these are considered briefly below.
33. Annex 2 of the Framework sets out the definition of deliverable, identifying two examples. One is when a site has outline planning permission or has been allocated in a development plan and when there is clear evidence that housing completions will begin on the site within the five year period.

Salden Park & Hampden Fields

34. These are allocated sites which, respectively, have outline planning permission for 1,855 dwellings, of which 381 are agreed to be deliverable, and 3,000 dwellings, of which 378 are agreed to be deliverable. There is currently an extant reserved matters application for a further 370 units at Hampden Fields, but no other live applications for any other phases on either site. Nonetheless, there are Planning Performance Agreements (PPA) in place for both sites, and the permissions granted so far are in line with the timescales required by the developers to meet their anticipated trajectories. Moreover although the current application is subject to an objection by Natural England (NE), the fact that outline consent has already been granted, and that NE's objections to the first phase were overcome, amount to clear evidence that that development will begin within the five year period.
35. However the anticipated rates of completion are unrealistic. They would be substantially higher than the approximate 200 houses per year that other large sites elsewhere in the Aylesbury Vale area can demonstrate, as shown in the appellant's evidence. To reflect more likely rates, I consider around 250 houses should be removed from the Salden Park supply and 400 from Hampden Fields.

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36. There are two extant outline planning applications and two extant full planning applications for this allocated site, totalling around 1300 dwellings. Even though related highway works have started and have had political and financial support, and there is a PPA in place, the Council accept there are a number of issues that

still require to be resolved on all four applications including the provision of an off-site Suitable Alternative Natural Greenspace at Kingsbrook Meadows which is pending a decision, anticipated this summer. There is not the clear evidence to lead me to conclude any completions would take place here within the 5 year period and so 150 homes should be removed from the supply.

Aylesbury Woodland

37. This allocated site has outline permission for 1,100 homes, approved around three years ago, but no reserved matters applications for houses have been forthcoming since. The Council advise that, despite objections from the Environment Agency, the current reserved matters application for a roundabout access is likely to be determined by the middle of this year, which would allow time for subsequent reserved matters application for houses to be approved and for completions of 30 units to begin in the last year of the five year period. However there is little clear evidence to support this and hence 30 houses should be removed from the supply.

Oxford House & Haddenham Industrial Estate

38. Neither of these sites are allocated, but prior approval for 22 units at Haddenham Industrial Estate has been granted.
39. The conversion of the ground floor of Oxford House to 29 units is subject of a current planning application which has been undetermined since 2019 pending the completion of a planning obligation relating to, among other things, affordable housing. Meanwhile, applications to convert the first and third floors and to erect 64 houses in the grounds, have been submitted, approved and the units completed. I understand a previous Inspector considered the site could be included in the Council's supply. Nonetheless, the lack of any continued progress since then, particularly in the context of the other permissions on the site, casts more doubt on its provision and I consider it should be removed from the supply.
40. It is agreed that the 22 units at Haddenham Industrial Estate subject of prior approval were not completed within 3 years of the date of the decision and hence are unlawful. The Council confirmed they would not pursue enforcement action, so their legality could readily be resolved by the submission of a retrospective planning application, should that be necessary to facilitate their sale. In practical terms, therefore, I consider these homes can remain in the supply.

41. Overall, I consider the housing land supply should be reduced by around 860 homes, which results in a housing land supply figure of a little under 3.5 years.

Planning obligations

42. The completed planning agreement purports to secure 25% of the housing to be affordable, with 80% of those to be houses for rent, and 20% to be intermediate housing. This accords with VALP policy H1. The development would also include the provision of major open space, incidental open space and a Local Equipped Area for Play (LEAP). The requirement for open space is set out in VALP policies I1, I2 and I3.
43. There is also an obligation to secure the provision of a mobility hub at Winslow station. This would reflect the aims of the Local Transport Plan to encourage cycling. A further transport related obligation relates to the provision of bus stop

improvements at bus stops in Padbury, again in the interests of encouraging sustainable travel modes.

44. All these obligations are reasonable in scale and kind to the development, are directly related to the development, and are necessary to make the proposal acceptable in planning terms. They therefore meet the three requirements of Regulation 122 of the CIL regulations and hence I have taken them into account.
45. The agreement also includes obligations to secure a contribution towards education provision at local secondary schools, the value of which would be dependent on the final mix of dwellings on site; a contribution to sport and leisure facilities in Padbury which would also be dependent on the mix of dwellings; a contribution to Buckinghamshire NHS trust of around £100,000 for local hospitals; about £20,000 towards a traffic regulation order to alter the speed limit on the A413 near the site; a contribution to provide for 12 weeks free bus travel for each dwelling; and a fee for monitoring the travel plan. However, these contributions would only mitigate the impacts of the scheme, carry no positive weight and so cannot have any bearing on my decision. As I am dismissing the appeal for other reasons, I need not consider them further.

Other considerations

46. There were a substantial number of objections from local residents raising a number of concerns, most commonly the capability of the sewerage system to accommodate the development, the effect on surface water flooding, traffic generated by the proposal, a lack of any capacity at Padbury primary school, and a lack of shops in the village to serve the future residents of the proposal. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider these issues further.

Planning balance

47. The failure of the Council to have a five years supply of housing land means that the most important development plan policies are deemed to be out of date. As such, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, in particular, the policies relating to sustainable locations, effective use of land, design and affordable homes.
48. The parties agree that Padbury as a medium village, is not an unsustainable location for new development. Moreover, the provision of the mobility hub at Winslow station, improvements to the bus stops in Padbury and highway improvements to the A413 would also promote sustainable transport. In this respect, the proposal would therefore accord with paragraphs 110 and 115 of the Framework. This infrastructure would largely mitigate the effects of the development though would also be of some benefit to the wider community. On that basis, I concur with the appellant that these benefits carry minor weight.
49. Under the heading of achieving appropriate densities, paragraph 129 states that development should make efficient use of land having regard to, among other things, the prevailing character and setting. Although the development would harm the character of the area, I do not consider this is as a result of the density of the development. However the failure of the proposal to respect the character and

appearance of the area and by being of an excessive scale for its location, would be contrary to paragraph 135 which aims to ensure the development adds to the quality of an area, is visually attractive through effective landscaping, and is sympathetic to local character including the surrounding landscape setting. This conflict carries substantial weight.

50. The provision of 25% of the units (potentially 20 dwellings) to add to the supply of affordable houses, and at an appropriate mix of tenures, would accord with paragraph 66 and is a positive benefit of significant weight.
51. In addition to these particular policies, the provision of 59 market houses at a time when the Council have an insufficient supply is a significant benefit particularly when the scheme would be built out quickly as evidenced by the condensed timeframe conditions agreed by the parties. This would align with paragraph 73 and is a matter of significant weight.
52. The provision of new open space and a LEAP would be within the site but would be available for the general public to use. They would therefore have a wider benefit than just the residents of the development. However given their location at the edge of the village, and towards the rear of the site, I would anticipate they would not be readily used and so the benefit to the existing residents of Padbury would be limited. Nonetheless, their provision would accord with paragraph 103.
53. The economic benefits associated with the construction and subsequent occupation of the units would accord with paragraph 85. The parties agree this is a benefit of moderate weight.
54. The proposal would provide biodiversity gains of around 10% in habitat units and 24% in hedgerow units, which would be supported by paragraph 192. However these are modest gains and I consider carry no more than moderate weight.
55. Overall, when considered against the policies of the Framework, I consider the harm would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development does therefore not apply.
56. The conflict with policies S2, S3 and D3 carry modest weight given they currently fail to facilitate the provision of a sufficient supply of housing. The conflict with policies NE4 and BE2 carries significant weight. Although I have found the development would accord with policies S1, NE7, I1, I2 and I3, the proposal would conflict with the development plan taken as a whole. The benefits of the scheme and the application of the Framework does not lead me to a decision other than in accordance with the development plan.

Conclusion

57. For the reasons given above the appeal should be dismissed.

A Owen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Killian Garvey	Kings Chambers
Michael Robson	Cerda Planning
James Morton	Aspect Landscape Planning Ltd
Neil Tiley	Pegasus Planning
Chris May	Freeths

FOR THE LOCAL PLANNING AUTHORITY:

Phillipa Jarvis	Consultant
Nicola Huijer	Landscape Architect
Gina Merritt	Planning policy officer

INTERESTED PARTIES:

Peter Burton	Padbury Parish Council
Phillip Wyatt	Local resident
Davis Barnes	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Draft planning obligation

Extract from Buckinghamshire Local Transport Plan 4 (March 2016- 2036)

LPA CIL compliance Supplementary Note