



Appeal Decision

Hearing held on 5 March 2025

Site visit made on 5 March 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2025

Appeal Ref: APP/P0240/W/24/3350507

Land East of Sutton Road, Potton SG19 2DS

- 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 Mulberry Land against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/00595/OUT.
 - The development proposed is outline application: development of up to 26 dwellings, comprising entirely affordable homes, with all matters reserved except for access, along with all ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the appeal form as the description was amended during the application process. I have also used the site address from the appeal form as it is a more accurate description.
3. The appeal has been made in outline, with access to be considered. Appearance, landscaping, layout and scale are reserved for later consideration. At the hearing, it was confirmed that the access details to be considered were those shown in green on drawing number 3369-F01 Rev C and that the details shown on drawing number MLA-POTT-A1-1201 Rev D were to be considered as indicative. I have considered the appeal on this basis.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site is a grassed paddock in use for grazing horses, divided by post and rail fences made of wood and of a modest height. It is mostly bounded by hedgerows with some occasional trees. Beyond the site sit a residential property, further undeveloped land, Sutton Road and by a grassed verge to Wrestlingworth Road.
6. The topmost edge of the site on Sutton Road lies immediately adjacent to the settlement edge of Potton, a designated minor service centre in the Central Bedfordshire Local Plan 2015 – 2035 (adopted July 2021) (LP). Potton is a nucleated settlement with development typically laid out in a suburban manner.

Despite this, development extends in a linear fashion along one side of Bury Hill. This is clearly distinct from layouts found within the settlement and forms a transition from the built up area of the settlement. Beyond the junction of the Sutton Road and Bury Hill/ Wrestlingworth Road, dwellings become more dispersed, set in larger plots typically with dwellings sited towards the road and the majority of the plot to the rear. The dwellings directly opposite the site at Stewart Croft are the exception to this, where there is a u-shaped layout of properties.

7. Layout is not before me. However, I must be certain that the site is capable of being developed for the proposal. Given the quantum of development proposed, the proportions of the site and the single point of access, which is fixed through this proposal, it seems likely that the proposed development would have to come forward with a suburban layout. This would reintroduce the higher density development found within Potton just as densities are reducing and layouts altering to reflect the transition away from the settlement and into the surrounding countryside. Consequently, the proposal would have a strongly urbanising effect on its immediate surrounds. This would be incongruous with the prevailing character of the area. While these adverse effects would be localised, they would nonetheless be adverse.
8. The appellant's Landscape and Visual Impact Assessment (LVIA) assesses the effect of the proposal on the wider landscape character as having no material effects. I agree with this conclusion given the limited visibility of the site in the wider landscape and its relationship to surrounding development in wider views. However this would not address the harm I have identified above.
9. The proposal would therefore have an adverse effect on the character and appearance of the area. It would be contrary to LP Policies SP7, EE5 and HQ1 and Potton Neighbourhood Plan Policy HO-5 which require development to reflect local character and distinctiveness including in terms of the pattern of existing settlement form and maintain the essential character of the town.

Other Matters

Housing Land Supply

10. Since the appeal was submitted, the Council has published a new housing land position statement based at 1 October 2024. As the most recent evidence of the Council's housing land requirement, this is the most appropriate point from which to assess the supply of housing land. It is not in dispute that the Council's five year housing land supply requirement, including the buffer required by paragraph 78 of the National Planning Policy Framework (the Framework), is 9,414 dwellings.
11. The Council considers it can demonstrate a 5.05 year supply of housing land. At the hearing, it was confirmed that the contribution of two sites to the Council's supply of housing land remained in dispute. Both of these sites were considered in the Langford appeal¹ and it was subsequently found in the Sear Farm appeal² that there was no reason to depart from the Langford findings. The Council has published rebuttals to these decisions which post date the land supply position statement. The appellant has been able to respond to this evidence.

¹ APP/P0240/W/24/3341832 allowed 11 November 2024

² APP/P0240/W/24/3348840 dismissed 24 January 2025

12. The Council's rationale for reintroducing 416 dwellings at land north of Houghton Regis, site 1 (HT057) is set out in its rebuttal to the Sears Farm decision. It is based on progress towards the submission of the reserved matters for Phase 3b and the appointment of housebuilders for seven of the parcels in Phase 4. However, at the Hearing it was confirmed that submission of a reserved matters application for 163 dwellings on Phase 3b was now not expected until the end of April. It was also confirmed that while housebuilders were being assessed by the landowners, it was now expected that they would not be appointed until the end of April. I am therefore not satisfied that there has been sufficient progress to demonstrate that the previously discounted 416 dwellings should be reintroduced to the supply.
13. This means that, at best, a housing land supply of 4.83 years can be demonstrated. It is not necessary for me to explore further the other disputed site. Were I to accept the appellant's approach, the housing land supply would be 4.67 years.

Affordable Housing

14. The proposal is for an entirely affordable housing scheme. Twelve of the proposed dwellings would be for people with a local connection to Potton. There would be a mixture of dwelling sizes and affordable tenures. The SoCG sets out the view of the parties that significant weight should be attached to the delivery of affordable housing. I am cognizant of the acknowledgement of the evidence in the Langford appeal that the Council has a good track record of delivering affordable housing and that fewer people per thousand population were on the housing register than the national average. However, I have no reason to reach a different conclusion and attach significant weight to this as a benefit.

Unilateral Undertaking

15. A completed Unilateral Undertaking (UU) dated 15 November 2024 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. This would secure the proposed dwellings as affordable in accordance with the definition set out in the Glossary to the Framework and ensure an appropriate size and tenure mix to meet needs would be provided.
16. The UU would also secure the delivery of biodiversity net gain within the site. As the scheme would not be subject to the mandatory requirement, this would also be a benefit to which I attach limited weight given the limited size of the site and extent of the gain, despite the parties considering this matter should be afforded moderate weight.
17. The UU would also secure financial contributions towards children's play facilities, a community hall, early years, leisure, NHS services, outdoor sports facilities, public transport, special educational needs provision and secondary school education. These contributions would be to address the demand generated by the development and so would be neutral in my assessment.
18. I am satisfied that the contributions secured through the planning obligation would be reasonable and necessary to make the development acceptable. They would be directly related to the development and would be fairly and reasonably related in scale and kind to the development. The planning obligations therefore comply

with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 58 of the Framework.

Other Matters

19. The proposed access would be acceptable in highway safety terms. The surrounding highway network would be capable of accommodating the additional traffic that would be generated by the proposal. Highway improvements, in the form of a crossing point and installation of a footpath to connect to the bus stop on Bury Hill, would be secured via a suspensive condition. As this would be beneficial to existing occupiers on Bury Hill and Sutton Road, I attach limited weight to this as a further benefit of the proposal.
20. There would not be an adverse effect on protected species. The site would not be at an unacceptable risk of flooding. The site would be capable of delivering a scheme that would provide acceptable living conditions for future occupiers that would not have an adverse effect on the occupiers of surrounding properties. Ensuring the development contributed to mitigating the effects of climate change would be assessed at the reserved matters stage. However, these are to be expected of any well designed development and would be neutral in my assessment.
21. The LVIA noted the presence of the Church of St Mary, a Grade I listed building. The parties consider there would be no impact to its significance from the proposed development. At my site visit, the church was clearly visible across the fields from the site given its elevated position in the landscape. Consequently, were I minded to allow the appeal, in light of the duty under S66(1)³ of the Planning (Listed Buildings and Conservation Areas) Act 1990, this would merit further consideration. However, as I have concluded that the appeal should in any case be dismissed, I have not addressed the matter further.
22. LP Policy SP7 on windfall development does not provide specific support for the proposal as it is not any of the development types expressly supported. This is an open list as it 'includes' the types of development supported. However, the policy is clear that, outside of settlement envelopes, the intrinsic character and beauty of the countryside will be recognised. As I have found harm to character and appearance would arise from the proposed development, the proposal would not be supported by this policy.
23. The proposal is no longer for entry level dwellings following the December 2023 amendments to the Framework. While a copy of the officer report for that proposal is before me, it was not a formal recommendation and was based on the national policy in force at that time. I have not attached any weight to this and assessed this proposal on the merits of what is now applied for. Reference is made to another appeal decision at Dunton⁴, however that decision was taken in light of the Framework at that time.
24. I note the proposal was not advertised as being a departure from the development plan. This was a matter of planning judgement for the Council and, as a decision made at the point of submission of the application, would not be determinative as

³ "In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

⁴ APP/P0240/W/23/3317184 allowed 10 December 2023

to the compliance of the proposal with the development plan. As I am dismissing the appeal, I do not need to consider this matter further.

Planning Balance and Conclusion

25. I have found that the Council cannot demonstrate a five year supply of deliverable housing land and that at best this supply would be 4.83 years. It was not in dispute that dwellings have been delivered over the plan period above the target set in the LP, and the appellant did not dispute that the Council was aspiring to deliver housing. Regardless of this however, paragraph 11d of the Framework is engaged.
26. Paragraph 11d)ii sets out that 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, having regard to key policies.
27. The delivery of 26 affordable dwellings, twelve of which would be to meet identified needs in Potton, is supported by paragraph 66 of the Framework and is a benefit to which I attach substantial weight. The improvement to pedestrian safety would support walking and provide access to existing bus stops. This would benefit not only occupiers of the scheme, but the small number of occupiers of existing dwellings that would be adjacent to the footpath. The site is within walking distance of the services and facilities within Potton, and as such the proposal would be in accordance with paragraphs 110 and 115 of the Framework. Further benefits of the proposal would be the delivery of biodiversity net gain and economic benefits from receipts to the Council as well as during the construction and occupation phases, each of which I attach limited weight to, given the proposal is for a limited number of dwellings.
28. Against these benefits are the adverse impact that I have identified to the character and appearance of the area. These bring the proposal into conflict with paragraphs 135 and 139 of the Framework. These require development to be sympathetic to local character and confirm that development that is not well designed should be refused. Taken alongside the advice in the Framework that the creation of high quality places is fundamental to what the planning and development process should achieve, I give very substantial weight to this harm.
29. While not taking away from their importance, I consider the contribution that the proposal would make to the supply of affordable housing supply would be modest relative to the overall degree of harm that would be caused to the character and appearance of the area. Consequently, the proposal would not benefit from the presumption in favour of sustainable development.
30. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to indicate the decision should be taken otherwise. For the reasons given, I conclude that the appeal should be dismissed.

Jennifer Wallace

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Emily Bishop

John Shephard

FOR THE LOCAL PLANNING AUTHORITY:

David Gauntlett

Jon Sheldon

DOCUMENTS

Document 1 – Local Plan Policy Map for Potton

Document 2 – Zones A and C of the Potton Neighbourhood Plan

Document 3 – Planning Obligations Supplementary Planning Document June 2024

Document 4 – Decision Notice CB/17/02575/OUT

Document 5 – Decision Notice CB/24/1802/RM

Document 6 – Updated Statement of Common Ground Table