

CD6.03

Appeal Decision – Clifton

Preface:

This appeal decision is important because it deals with the changing nature of a village settlement after adoption of a plan which is relevant to the consideration of the appeal scheme.

The relevant paragraphs referenced in the Appellant's proof are highlighted yellow.



Appeal Decision

Hearing held on 15 October 2019

Site visit carried out on the same day

by Mrs J A Vyse DipTP Dip PBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th December 2019

Appeal Ref: APP/P0240/W/18/3211229

Land off Broad Street, Clifton SG17 5RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Planning Prospects Limited and Sheila Bowman and Nicola Yvonne Bass against Central Bedfordshire Council.
 - The application, No CB/18/01099/OUT, dated 15 March 2018, was refused by a notice dated 21 June 2018.
 - The development proposed comprises residential development of up to 80 dwellings (including 35% affordable housing) landscaping, public open space, surface water flood attenuation, vehicular access from Broad Street and associated ancillary works.
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Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for residential development of up to 80 dwellings (including 35% affordable housing) landscaping, public open space, surface water flood attenuation, vehicular access from Broad Street and associated ancillary works, on land off Broad Street, Clifton in accordance with the terms of the application, No CB/18/01099/OUT, dated 15 March 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. This is an outline application with all matters other than access reserved for future consideration. The submitted plans include a location plan and a plan showing the proposed Broad Street access details. A Development Framework Plan was also submitted (Plan No 674A-30C) showing the areas proposed for housing, open space, landscaping etc and the site access. Whilst indicative, the appellant relies on this plan to a large extent, to illustrate how the scale of development proposed could be accommodated at the appeal site, notwithstanding that layout and landscaping are not for consideration at this time.
3. Whilst the second of the two reasons for refusal **set out on the Council's** Decision Notice relates to the absence of a completed legal agreement, a planning obligation by deed of undertaking was submitted in connection with the appeal. I deal with the provisions secured in more detail later on. An executed version of the undertaking was submitted shortly after the close of the Hearing with the agreement of the parties.¹
4. After the close of the Hearing, an appeal decision relating to a site at Park Farm, Westoning was drawn to my attention by the Council.² The appellant was

¹ Listed as Doc 5 below

² APP/P0240/W/18/3204513 Dismissed 21 October 2019 (Doc 6)

given the opportunity to submit views on that.

5. The emerging Local Plan is currently the subject of Examination. It was a matter of agreement between the parties, as set out in the Statement of Common Ground, that only limited weight can be afforded to the policies of that Plan at the present time.

Main Issue

6. The main issue in this case relates to the effect of the development proposed on the character and appearance of the area and on the setting and identity of Clifton.

Reasons for the Decision

Character and Appearance

7. **The District's settlement hierarchy as set out in the** Central Bedfordshire Core Strategy,³ focuses most new development in the larger settlements with the best range of services and access to public transport. The Ivel Valley, within which the appeal site lies, is identified by policy CS1 as a particular focus for development, creating a string of complementary settlements where new development improves their individual and combined sustainability. The Settlement Hierarchy, as expressed through this policy, also identifies Clifton as a Large Village, the Settlement Envelope for which is defined on the Proposals Map.
8. The 5.3 hectare (ha) appeal site lies adjacent to but outwith the eastern settlement edge of the village as currently defined in both the adopted and emerging development plan and thus lies within open countryside for the purposes of planning policy. Policy DM4 of the Core Strategy identifies the types of development that are generally appropriate within Settlement Envelopes, essentially discouraging development in the countryside other than limited garden extensions. In proposing new residential development in the countryside, there is conflict with policy DM4.
9. Together and among other things, Core Strategy policies CS16 and DM14 seek to conserve and enhance countryside character and local distinctiveness in accordance with the findings of the Mid Bedfordshire Landscape Character Assessment,⁴ resisting development that would have an unacceptable impact on the landscape quality of an area. Development in the Ivel Valley is required to provide landscape enhancement on or adjacent to the development site, or contribute towards landscape enhancement. Existing trees are to be protected, with an increase in tree cover promoted.
10. The area within which the appeal site lies is subject to a number of Landscape Character Assessments from national through to local level.⁵ In essence, it sits within an area of generally level lowland with some long range views over large scale open arable fields which contrast with the more intimate, small scale pastures along the course of the River Ivel (to the east of Henlow). Overall it is described as a fragmented landscape, with the wide views over the level arable fields sometimes interrupted by abrupt settlement edges, its landscape

³ Core Strategy and Development Management Policies DPD, adopted November 2009.

⁴ Following unitary reorganisation, the 2007 Landscape Character Assessment referred to by the policy was superseded by the 2015 Central Bedfordshire Landscape Character Assessment (2015 LCA).

⁵ The appeal site lies within National Character Area (NCA) 88: Bedfordshire and Cambridgeshire Claylands. At a more local level, it sits within the Upper Ivel Clay Valley (Type 4c) **as defined by the Council's** 2015 LCA.

character being largely determined by the presence of nucleated villages, such as Clifton and Henlow, surrounded by open fields.

11. The National Character Area Profile for NCA88 includes a number of Statements of Environmental Opportunity (SEOs). Examples of measures to secure SEO3 include the enhancement of green infrastructure for both biodiversity and recreation and enhancing the visual appearance of the urban edge of settlements through new woodland planting. Among other things, the stated Landscape Strategy for the Upper Ivel Valley as set out in the **Council's** 2015 LCA, is to create new features to enhance and strengthen the river valley character such as tree planting to screen harsh urban boundaries and increase biodiversity interest. In addition, the guidelines for new development in the 2015 LCA seek, among other things, to safeguard the rural character and qualities of the Ivel corridor by planting further woodlands to create a more rural edge to development on the margins of villages; encourage the creation of new wetlands to increase biodiversity interest and strengthen character; enhance landscape boundaries at exposed urban edges; and avoid the coalescence of towns and villages.
12. The appeal site is located on the northern side of Broad Street and comprises part of a larger, irregularly shaped arable field which has different crop growing areas within it. It contains no significant topographical features, although a row of early mature/semi mature trees within an unmanaged hedgerow extends part way into the site at its northern end.
13. Other than a roughly 25 metre wide strip running into the site off Broad Street alongside No 111 required to facilitate the proposed vehicular access, the southwestern site boundary is aligned with the rear boundaries of the Broad Street dwellings that back on to the site. The north-western site boundary follows the end of the rear gardens of six properties on this side of The Joint (a residential cul-de-sac off Broad Street) before stepping out to run roughly northwards alongside public footpath No 4 (FP4) for a distance of some 150 metres. Houses on Newis Crescent and Brickle Place back onto the opposite side of this section of the footpath, their short rear gardens enclosed largely by timber fencing. At a rough area of trees and shrubs on the site of a long disused tip, the site boundary returns in a north-easterly direction, extending some way into the open field on an arbitrary line following no marked feature on the ground, before then returning back onto Broad Street, again along an undefined line. At its north-eastern corner, the site boundaries project in an easterly direction creating a narrow finger across the open field, mainly to accommodate underground drainage connections. The eastern boundary of the larger field is defined by a strong row of Poplar trees running along the line of public footpath No 5 (FP5) and adjacent ditch, which join onto an area woodland at the junction of FPs 2, 4 and 5.
14. Neither the appeal site, nor the land that surrounds it, is subject to any national or local landscape designation. It was a matter of consensus between the parties in this regard, that this is not a valued landscape in the terms of paragraph 170a) of the National Planning Policy Framework (the Framework). I agree - the appeal site does not include specific attributes or landscape features which take it out of the ordinary, sufficient for it to amount to a **'valued landscape'** as referred to by the Framework. That is not to say though, that it has no value. Indeed, the landscape here is clearly valued by local people.

15. The appeal site, and the larger field within which it sits is largely flat, although levels do drop away slightly to the northeast. The largely vegetated roadside field boundary along Broad Street generally limits views of the site from the south. However, views across the site are afforded from the length of FP5, which runs along the eastern boundary of the larger field; from FP4, which joins with the northern end of FP5; and from the western end of FP2, at its junction with FPs 4 and 5. In those views, against the backdrop of the existing dwellings on this edge of the village the development would, I consider, be seen in the context of and as part of the settlement.
16. **In terms of the existing character and identity of Clifton, the appellant's** Heritage Statement confirms that whilst historically, linear development extended the original village nucleus (now a conservation area) the character of the settlement has changed over the years, with significant development on Newis Crescent, Brickle Place and Miles Drive in the mid-1970s effecting a significant change to its setting. More recently, residential development has occurred to the east of the settlement on Stockbridge Close. I am mindful also that a scheme for up to 97 dwellings on Hitchin Lane on the southern side of the village has recently secured permission on appeal.⁶ It is clear therefore, that growth is a characteristic of the settlement. Although each time housing development has taken place on the edge of the village it would appear that fields have been lost, there has been no material change to the overall character of the village in its current form, or its identity as a nucleated settlement surrounded by fields. To my mind, the development proposed would be no different and would not be a complete departure from the existing settlement pattern. I find no harm to the identity and setting of Clifton in this regard.
17. The planning application was accompanied by a Landscape and Visual Impact Assessment (LVIA) supplemented at appeal by a Landscape Statement. Both documents assess the landscape here as being of medium value and of medium sensitivity.⁷ Although the Council generally concurs with that assessment in terms of the wider landscape, it ascribes the site itself a medium/high value on the basis that it is located in what it refers to as a highly constrained area of countryside between the villages of Clifton and Henlow that makes an important contribution to the sense of place of both settlements.
18. The appeal site lies at the western edge of an 'Important Gap' **between** Clifton and Henlow, as defined by saved policy CS21 of the Mid Bedfordshire Local Plan: First Review (December 2005). The policy resists development proposals within Important **Gaps that would 'promote the visual or physical coalescence of nearby settlements.'** The policy is not recited in the related reason for refusal and there was no suggestion that it had been omitted in error (unlike other policies relied on by the Council) **although at Council's evidence confirms** that whilst not most important, it is a relevant policy.
19. Whilst CS21 is a spatial policy, rather than a landscape designation as such, the open landscape character here informs that policy. I am also aware that the Clifton Green Infrastructure Plan (March 2011) produced by the Parish Council alongside the District Council, includes the appeal site within an area for which the identified aspirations are to retain farmland to act as a buffer between Clifton and Henlow to conserve their own distinct characters (Area

⁶ Appeal ref APP/P0240/W/16/3154829 - Land off Hitchin Lane, Clifton (Allowed 17 February 2017)

⁷ In the terms of the Guidelines of Landscape and Visual Impact Assessment (Third Edition)

- 19c). Whilst the document does not form part of the development plan for the area, it does identify what is important to the local community.
20. Self-evidently, the development proposed would affect the landscape character of the appeal site itself, replacing part of a large scale agricultural field on the settlement edge with up to 80 dwellings. However, in terms of the landscape character of the wider area, any impact would be local. Whilst there would be some harm, particularly during construction and on completion, the landscape here is already materially influenced by the existing settlement edge, representative of the hard abrupt edges described in the 2015 LCA.
21. As indicated on the Development Framework Plan, the extent of the proposed built form (approximately 2.3 ha) is intended to be contained immediately to the rear of the housing on Broad Street, The Joint and Newis Crescent, extending no further east overall than the existing housing. The remaining 3 ha of the appeal site, wrapping around the northern and eastern edges of the proposed built form, is shown as comprising a substantial area of landscaping, including planting, public open space and a surface water attenuation basin. In my view, this aspect of the scheme ensures that development proposed would address and integrate the abrupt urban edge created by the exposed rear garden boundaries, with the new housing set within a framework of green infrastructure, landscape buffers and structural planting that would mature over time to create a much softer settlement edge as the guidelines in the various documents referred to above suggest should be achieved by taking advantage of any development that takes place. In this regard, I consider that not only would the landscaping and planting proposed assist in screening and providing a setting for the development itself but would, over time, also provide a welcome enhancement to the landscape character of the area in accordance with the stated environmental opportunities and guidelines for this landscape type. I agree therefore, with conclusions of the LVIA in this regard, that the effect on the landscape character of the wider area can be considered as minor beneficial in the long term. Accordingly, I find no conflict with Core Strategy policies CS16 and DM14, or the aspirations of the Green Infrastructure Plan.
22. The defined Important Gap between Clifton and Henlow comprises generally agricultural land that is fringed by built development at the settlement edges. Ribbon development at the southern end of the Gap, along Broad Street/ Clifton Road, reduces the Gap on the southern side of the road to between 135-185 metres. Along the northern side of the road the Gap is much wider, widening out further still behind the existing frontage developments. On Stockbridge Road, the Gap extends to some 310 metres towards its northern end. A minimum separation of some 575 metres would remain between the built up part of the appeal site and Henlow, which distance is significantly wider than the separation along the road frontages between the two settlements. In that overall context,⁸ whilst the scheme would introduce development into the Gap, this is not a constrained part of the Gap and the development proposed would not promote the visual or physical coalescence of the two settlements. I find no conflict therefore, with policy CS21. There would be no conflict either with the stated purpose of Settlement Envelopes, as set out in the supporting text to policy DM4, which confirms that the Settlement Envelopes also serve to prevent coalescence between settlements.

⁸ As shown on the plan on page 11 of the Design and Access Statement.

23. In terms of visual impact from public vantage points, there are two aspects to consider: views across the site to the landscape beyond and views back towards the settlement edge. In these regards, the highest level of change is likely to be experienced by the users of the public footpaths and those residents that back onto the site. However, when walking the footpaths as part of the accompanied site visit, although it is apparent that one is in the open countryside, the abrupt settlement edge of Clifton is also evident. The northern part of FP4, and the length of FP5, would be separated from the built element proposed by the landscaping area proposed that would wrap round the northern and eastern edges of the housing, with open undeveloped agricultural land remaining between the paths and the appeal site boundary. Whilst there would be a significant change in view during construction and on completion, I tend towards the conclusion of the LVIA that, as the proposed planting and landscaping matures, and with no physical or visual coalescence between the two settlements, the magnitude of that impact would reduce to low over time, with a minor adverse significance of effect.
24. The impacts would be greater for the 150 metre section of FP4 which passes along the urban edge of Clifton, with the appeal site immediately to the east, where there would be a loss of open views. However, that section is only a small part of the overall length of the footpath route.⁹ Whilst this short section of the route would have housing on both sides, that is no different from the southern section of the footpath which runs along The Joint. Moreover, the **appellant's** Landscape Statement confirms that the development would be set within a landscape corridor here, providing separation between the footpath and the proposed housing. The detail of that corridor, and thus its efficacy, is a matter that would be within the control of the Council at reserved matters stage were the appeal to succeed. All in all, whilst there would be a material change in views from this short section during the construction phase and on completion, as the proposed planting and landscaping matures, the significance of that effect for that short stretch would, in my view, reduce to moderate adverse over time.
25. The development would be seen from the rear of the existing houses that back onto and have views across the appeal site. However, it is well established that that in terms of private interests, there is no right to an open view. As such, any changes within the site need to be considered in terms of the residential amenity/living conditions of those residents. I have considered carefully whether local residents would be affected harmfully by the proposal such that their properties would be unpleasant places in which to live. Clearly there would be changed views for residents, with current views of fields becoming views or glimpses of housing, roads and associated open space. In my judgement however, subject to future design proposals over which the Council would have control, there would be no unacceptable impact on residential receptors in terms of their living conditions.
26. So, to conclude on this issue, inasmuch as the scheme involves development outwith the defined Settlement Envelope for Clifton, there would be some conflict with Core Strategy policy DM4. I find no conflict however, with that part of the intended purpose of the policy in preventing coalescence between settlements.

⁹ The appellant's Landscape Statement sets out that the total length of FP4 is some 670 metres.

27. I have also found that there would be no long term physical or visual coalescence between Clifton and Henlow and no conflict therefore, with saved policy CS21 of the Mid Bedfordshire Local Plan: First Review. I find no conflict either with policies CS16 and DM14 of the Core Strategy. On the contrary, I consider that there would be significant benefits in terms of landscape enhancement and a net gain in landscape features, including a softening of the currently hard and abrupt settlement edge here.
28. Policies CS14 and DM3 of the Core Strategy seek to secure high quality development through various means. There was some discussion as to whether these are relevant policies in terms of outline applications such as this. Even if they are relevant at this stage, I find no conflict since the scheme would, in my view, be appropriate for its setting in terms of the scale of development proposed and in that it provides for landscaping appropriate to the development and its setting, contributing to a sense of place.

Benefits of the scheme

29. Clifton is identified as a Tier 3 settlement in the settlement hierarchy for the area as set out in the Core Strategy, reflecting its good range of services and facilities. It also benefits from its close proximity to Shefford, a Minor Service Centre, and the site is well served by public transport with bus stops in both directions along Broad Street close to the site entrance. In proposing new development at Clifton, a benefit of the scheme is the provision of up to 80 new dwellings in an accessible location.
30. In addition, at least 35% of the dwellings would be affordable, in compliance with Core Strategy policy CS7. The Council suggested that the affordable housing provision should attract only limited weight on the basis that does no more than meet the policy requirement, with my attention drawn to two appeal decisions dating from early 2018. My reading of those, however, does not lead me to the same view as that of the Council. Although the provision in the Cranfield decision¹⁰ did no more than comply with the policy requirement, the Inspector noted that since policies exist to seek planning benefits, not just to avoid harms, the affordable housing was a benefit to be included in the balance. He did not ascribe any particular weight to that benefit. In the Meppershall decision,¹¹ whilst the Inspector noted that the affordable housing provision simply met the policy requirement, she nevertheless went on to afford significant weight to the social benefits of the proposal.
31. In the instant case, I am mindful that paragraph 11.4.2 of the submission **version of the emerging plan refers to a 'stark depiction' of just how serious the affordability problem is in Central Bedfordshire.** Against that background, despite doing no more than meeting the policy requirement, I am firmly of the view that the provision of 35% affordable homes on the appeal site, ie up to 28 dwellings, is a significant social benefit of the scheme that carries considerable weight.
32. Significant socio-economic benefits would also flow from the development, including a construction spend of some £9 million, generating 77 construction jobs over a three year build out period, as well as 86 indirect jobs in associated industries, with an additional £3.16 million of direct gross value added. In

¹⁰ APP/P0240/W/17/3181269 Mill Road, Cranfield

¹¹ APP/P0240/W/17/3175605 High Street, Meppershall

addition, future residents are expected to generate a total gross expenditure of over £2.5 million. I recognise that the benefits to the construction industry would be time limited and there is no suggestion that local facilities are struggling and would thus benefit significantly from increased patronage. Accordingly, whilst welcome, I therefore afford these benefits moderate weight overall.

33. As confirmed by **the appellant's ecological** appraisal, as part of a large arable field the site is currently of negligible to low intrinsic ecological value. There would be a considerable benefit to biodiversity therefore, as a consequence of the development scheme, given the 3 ha landscaped/planted area proposed that would wrap around the site, which would include structural planting, amenity grassland and meadow planting, a landscape focal feature and an attenuation basin. There would also be a substantial benefit in that it would address and integrate the existing abrupt urban edge in accordance with .
34. Improvements to elements of local community infrastructure and open space provision secured via the planning obligation (as set out below) would also benefit existing local residents. However, since the purpose of the obligations secured is primarily to mitigate harm arising from the development proposed, I am not persuaded that it is a consideration that attracts any more than limited weight.
35. Reference is made to income for the Council from the New Homes Bonus as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. However, New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. I am mindful, in this regard, that the planning guidance makes it clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority.¹² Accordingly, whilst the Bonus is a material planning consideration, it is not one to which I attach positive weight.
36. Increased Council tax receipts are also mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services etc, again that is not a consideration to which I attach positive weight.

Other Matters

37. The site would be served by a new T-junction on to Broad Street. Local residents expressed concerns in relation to the safety and free flow of traffic and pedestrian safety. However, the Highway Authority does not raise any objection subject to appropriate conditions. Broad Street has a footway on the northeast side, as well as street lighting. Although the footway would need to be increased to 2 metres in width between the site and the nearest bus stop, that is a matter that can be secured by condition. As a consequence of traffic speeds along Broad Street exceeding the 30 mph speed limit, a speed reduction scheme needs to be secured to ensure that the proposed access arrangement is safe. Again, that could be dealt with by condition. I am content in these regards, that the development proposed would not result in material harm in terms of vehicular and pedestrian safety. To my mind, the

¹² ID: 21b-011-20140612

speed reduction scheme would in fact be a benefit of the scheme, attracting at least moderate weight in the overall balance.

38. I was told of poor drainage within the site and of localised surface water flooding and note that Core Strategy policy CS13 seeks to ensure that proposals incorporate suitable drainage infrastructure. The appellant's flood risk assessment and drainage strategy confirms that the appeal site lies within flood zone 1, which areas are at the lowest probability of flooding. Whilst surface water could shed towards the site in extreme events, water from the slightly higher land to the west is likely to be intercepted by the highway drainage before reaching the site. Clearly development of the site would increase impermeable surfacing which, if not managed, could increase the risk of overland flows. **The Council's sustainable drainage officers are content** however, that this is a matter that can suitably be addressed through the use of appropriate conditions were the appeal to succeed. In the absence of any substantiated evidence to the contrary, I have no reason to disagree.
39. The development proposed would result in the loss of agricultural land. Although **the officer's report suggests that it is not classified as best and most versatile agricultural land**, ie grade 1, 2 or 3a (BMV), **the Council's case at the Hearing**, through the evidence of Ms Myers and Mr Hughes, was that it is. Local residents also suggest that it is BMV. No substantiated evidence was before me on this matter. However, even if the whole site is BMV, the loss of such land would, in the scheme of things, be relatively small and not significant.
40. In relation to concerns about effect on wildlife and biodiversity, the appeal site does not include any statutory or non-statutory designated site of nature conservation interest. In addition, I have already referred above to its negligible to low intrinsic ecological value. Those areas of greatest scope for interest, namely hedgerows and trees, would be retained and enhanced and, together with the proposed attenuation basin, would result in benefits in terms of wildlife and biodiversity. Whilst a single badger sett is recorded nearby, it is only the badgers themselves and their setts that are protected by law, neither of which would be directly affected by the development proposed. In any event, the new meadow and amenity grassland and structural planting proposed would, it seems to me, increase the quality of foraging opportunities for any local badger population, a further benefit of the proposal.
41. As noted above, the site lies close to the site of a long disused tip and concerns were expressed in relation to potential pollution. However, **the Council's** Environmental Health officer raised no objection in this regard, subject to appropriate conditions assess and mitigate any potential harm. No substantiated evidence was before me to indicate that that would not provide sufficient protection for future residents.
42. It was drawn to my attention that at least one local resident has a balcony area that overlooks the appeal site. As acknowledged above, views from there would change as a consequence of the development proposed. Concern was also expressed in relation to potential overlooking and loss of privacy. Matters relating to layout and detailed design would be for the Council to consider in the first instance were the appeal succeed. I have no reason to suppose, in this regard, that the dwellings proposed could not be positioned in such a way

as to ensure sufficient separation to avoid significant overlooking and material loss of privacy.

Planning Obligation

43. The appeal is accompanied by a planning obligation in the form of a unilateral undertaking. Subject to the usual contingencies, the undertaking sets out covenants that would be imposed on the owners in favour of the District Council. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 56 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
44. *Education*: to accommodate the additional demand created by the proposed development, the undertaking secures a contribution towards the provision of early years, lower, middle and upper school places at local schools and/or a new school (Pix Brook Academy). As set out at paragraphs 5.105-5.125 of the proof of Mr Hughes, and his Appendix 14, the contribution is derived from a calculation based on pupil yield x the relevant DfE cost multiplier for each category.
45. *Healthcare*: the development is expected to generate around 192 additional patient registrations, the main impact in this regard being on the Shefford Medical Centre. The current premises are nearing capacity, with development both currently under construction and already committed likely to take it beyond capacity. I was advised that there is scope to expand the surgery although questions were raised as to the availability of doctors. To secure the required provision, a contribution of £738 per dwelling is provided for, based on an updated formula operated by the Bedfordshire Clinical Commissioning Group for NHS England.
46. *Waste/Recycling*: a contribution of £55 per dwelling is secured towards the provision of two x 240 litre bins and one x 23 litre food caddy for each of the proposed dwellings. The provision ensures that the bins used within the development are compatible with the collection vehicles used by the waste collection contractor and will encourage recycling and composting to help deliver sustainable development by driving waste management up the waste hierarchy.
47. *Children's play and outdoor sport*: a contribution of £687.50 per dwelling is secured towards the improvement of existing play areas in the vicinity of the appeal site, including the nearby Whiston Crescent Recreation Ground play area, plus a contribution of £287.31 per dwelling towards off-site outdoor sports improvements, including the provision of a floodlit Multi-use Games Area at the Recreation ground.
48. *Village Hall*: a contribution of £1645.81 per dwelling is secured towards necessary upgrades to Clifton Village Hall and the STMA community building in Shefford as identified in the Central Bedfordshire Leisure Strategy Village and Community Halls Audit and Assessment Report. The basis for the calculation is set out at Appendix 15 to the proof of Mr Hughes.

49. *Affordable Housing*: Core Strategy policy CS7 seeks a minimum 35% affordable housing provision. The provision secured meets that requirement and in so doing would help meet an identified pressing need.
50. *Open Space*: the obligation secures the provision, retention and ongoing management of sufficient on-site open space within the site to meet the needs of future occupiers, **pursuant to the Council's Recreation and Open Space Strategy**.
51. All the contributions and obligations referred to above are consistent with Core Strategy policies CS2 and CS3, which together seek to provide healthy and sustainable communities by securing contributions from any development expected to necessitate additional or improved infrastructure or exacerbate an existing deficiency. They are reasonably related in scale and kind to the needs generated by the proposed development and I am content that they meet the relevant tests.

Overall Planning Balance and Conclusions

52. I have found that the proposal would conflict with policy DM4. There was much discussion in this regard as to whether the policy is out of date. Numerous appeal decisions were drawn to my attention which deal with that in different ways. For the purposes of this appeal, I have treated the policy as being not out of date. That is not to say that I necessarily endorse that view, but I have adopted it in order to carry out the planning balance. As noted at the start, there is also disagreement between the parties as to whether the Council can demonstrate a robust five year supply of housing land. For the purposes of this **appeal and the carrying out of the planning balance, I accept the Council's** position that it can demonstrate a supply. Again, that is not to be taken as meaning that I agree necessarily, it is simply a pragmatic approach in the circumstances that prevail here.
53. In light of the forgoing, the so called 'tilted balance', as expressed through paragraph 11d) of the Framework, is not engaged. That leaves the appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. The combined benefits of the scheme in this case are substantial. Even were I to treat the conflict with policy DM4 as meaning that there would be conflict with the development plan as a whole, I consider in this instance, having regard to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, that those benefits amount to material considerations, sufficient in this case given the very site specific context of the scheme to outweigh the harm arising through the conflict with policy DM4 and the very limited harm in terms of character and appearance and the potential loss of BMV. In my view, the benefits in this case outweigh the identified harms such that there is no conflict with the Framework when assessed overall. After very careful consideration I conclude, on balance, that the scheme can be considered as sustainable development and that the appeal should succeed.
54. There is clearly strong local feeling about this proposal, as reflected by the volume of objections received and the articulate opposition demonstrated at the Hearing. I recognise therefore, that this decision will be disappointing for local residents. However, the views of local residents, very important though they are, must be balanced against other considerations. In coming to my conclusions on the issues that have been raised, I have taken full and careful

account of all the representations that have been made, which I have balanced against the provisions of the development plan and the National Planning Policy Framework. For the reasons set out above however, the balance of considerations in this case lead me to conclude, overall, that the appeal should succeed.

Conditions

55. Possible conditions were discussed in detail at the Hearing on a without prejudice basis in the light of the related advice in both the Framework and the **Government's Planning Practice Guidance**. The conditions and wording set out in the attached schedule reflect that discussion and are based on the wording in Doc 7 listed below.
56. Conditions 1, 2 and 3 in the attached schedule relate to the submission of reserved matters and the commencement of development. To provide certainty, it is necessary to identify the plans to which the decision relates, but only insofar as they relate to the matter of access which is not reserved for subsequent approval. (4) Whilst all matters other than access are reserved for further approval, it is necessary for the outline permission to define the maximum capacity of development. (5)
57. In the interest of protecting the established character and appearance of the area and the role and function of the Important Gap, it is necessary to ensure that development of the site is in general accordance with the principles set out in Development Framework Plan (No 674A-30C) and the Design and Access Statement. (6) The wording originally suggested by the Council included reference to a number of details that would be the subject of the reserved matters applications and so are unnecessary at this point. The amended wording that I have used reflects the related discussion.
58. Any pedestrian access additional the arrangements shown on the approved plans shall not be constructed other than in accordance with details to be submitted to and approved by the local planning authority to ensure that it is constructed to a sufficiently high quality for the intended purpose and in appropriate materials, in accordance with Core strategy policy DM3. (7) Since the scheme is not dependant on the provision of any such, it is not necessary to secure provision prior to first occupation of any dwelling.
59. Conditions 8-13 are necessarily worded as pre-commencement conditions.
60. Details of proposed ground levels and proposed finished floor levels are necessary in the interest of visual amenity and to protect the outlook and privacy of adjoining occupiers. (8) In order to avoid pollution and to prevent increased risk from flooding, it is necessary to secure details of a sustainable surface water drainage scheme, together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended, in accordance with Core Strategy policy CS13. (9) In order to minimise disruption during construction for local residents and those travelling through the area in the interest of highway safety and to protect the environment, condition 10 secures a Construction Environmental Management Plan. I have deleted the suggested requirement for monitoring and review of the construction process which is unnecessary given the requirement for a consultation and complaints management procedure to be agreed.

61. An Ecological Enhancement Strategy is necessary in order ensure the protection and enhancement of biodiversity and nature conservation interests, in accordance with policy CS18 of the Core Strategy. In the absence of any indication that **the appellant's** Ecological Assessment and required mitigation and enhancement measures set out therein is deficient in some way, there is no need to secure the suggested review of site potential and constraints. (11)
62. **The appellant's** Heritage Statement identifies low potential for archaeological remains to be encountered on the site, which does not preclude its development. A condition is required though to allow for any historical and archaeological potential that is uncovered to be recorded during the construction process, in accordance with Core Strategy policy CS15. (12)
63. Pursuant to policies DM1 and DM2 of the Core Strategy, it is necessary to require a proportion of energy sources to be renewable or low carbon and for water efficiency measures to be provided. (13)
64. Conditions 14-17 are necessarily to be complied with prior to first occupation of any dwelling. Conditions 14 and 15 are required in the interest of highway and pedestrian safety in accordance with policies CS4 and DM3. Condition 16 is necessary to encourage reduced reliance on the private car by promoting use of public transport and sustainable modes of transport in accordance with policy DM9. Condition 17 requires the provision of fire hydrants in order to ensure that adequate water infrastructure is available on site for the local fire service to access and tackle any property fire.
65. Given the proximity of the site to a long disused tip, it is necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from contamination are properly dealt with to protect the health of future occupiers and to prevent pollution of the environment. (18)
66. A condition relating to any external lighting is necessary in the interest of visual amenity and to mitigate disturbance to wildlife, in accordance with policy CS14. (19)

Jennifer A Vyse

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christian Hawley, of Counsel	Instructed by Planning Prospects
Jason Tait	Director, Planning Prospects
BA(Hons) DipTP MRTPI	
Chris Dodds	Associate Director, Planning Prospects
BA(Hons) MA MRTPI	
Nichola Jacob	Partner, Randall Thorp
BA(Hons) MLA CMLI	
Tom Baker	Associate Director, Savills
MSc MRTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Alexander Booth, of Queen's Counsel

Phillip Hughes	Principal, PHD Chartered Town Planners
BA(Hons) MRTPI	
Jonathan Lee	Opinion Research Services
BSc MCI LARIA	
Julia Scott*	Landscape officer with Central Bedfordshire Council
BA CMLI	

*Mrs Scott spoke to the written statement of Alison Myers, submitted as part of the **Council's evidence**.

INTERESTED PERSONS:

Mrs Mary Walsh	Planning Volunteer and Trustee, Campaign For Rural England
David Lawson	Local resident
John Hutchins	Local resident
Catherine Routh	Local resident
Simon Fish	Local resident
Mrs Sadler	Local resident
Karen Hicks	Local resident
Brian Walker	Local resident
Brian Hogarth	Local resident
Trevor Brown	Local resident
Barry Livsey	Local resident
Clive Furr	Local resident
Mrs Herbert	Local resident
Gillian Evans	Local resident
Malcolm Kingsbury	Local resident
Ms Wischhusen	Local resident
Linda Harrison	Local resident
John English	Local resident
Bob Smith	Local resident

DOCUMENTS HANDED UP DURING THE HEARING

- Doc 1 Team sheet for the appellant
- Doc 2a Letter to the Council from the Local Plan Inspectors dated 30 September 2019
- Doc 2b **Council's response dated 14 October 2019**
- Doc 3 Natural England Technical Information Note TIN049 (Dec 2012) and an extract (page 35) of **the Government's publication 'A Green Future: Our 25 Year Plan to Improve the Environment'** (2018) – handed up by Mrs Walsh
- Doc 4 Written comments of Clifton residents (handed up by the Parish Council)

DOCUMENTS SUBMITTED AFTER THE HEARING

- Doc 5 Executed Undertaking
- Doc 6 Appeal Decision Park Farm, Westoning (APP/P0240/W/18/3204513)
- Doc 7 Revised conditions schedule reflecting related discussion at the Hearing

Schedule of Conditions
Appeal APP/P0240/W/18/3211229
Land off Broad Street, Clifton

Reserved Matters

- 1) **Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters')** shall be submitted to and approved in writing by the local planning authority before any development begins. Development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.

Plans

- 4) The development hereby permitted shall be carried out in accordance with the details shown on Proposed Access Plan No ITM13310-SK-004c, but only insofar as it relates to access to the site.

Development Parameters

- 5) No more than 80 dwellings shall be constructed on the site.
- 6) All reserved matters shall be in general accordance with the principles for the development of the site as set out on the Development Framework Plan No 674A-30C and in the Design and Access Statement, with development to be carried out in accordance with the approved details.

Access

- 7) Other than as shown on Plan No ITM13310-SK-004c, no pedestrian access to the site shall be formed, created or provided other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Pre-Commencement Conditions

- 8) No development shall take place, including works of site clearance, unless and until details of the proposed ground levels within the site and finished floor levels of the dwellings hereby permitted, relative to an existing fixed datum, have been submitted to and agreed in writing by the local planning authority. Development is to be carried out in accordance with the approved details.
- 9) No development shall take place, including works of site clearance, unless and until a sustainable drainage scheme for the site based on the agreed Flood Risk Assessment and Drainage Strategy (12 January 2018) and an assessment of the hydrological and hydrogeological context of the site, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed in accordance with the approved details. The submitted scheme shall:
 - i) provide information about the extent of impermeable area, peak flow rate and storage requirement, with full calculations and methodology;
 - ii) include provision of attenuation for the 1 in 100 year event (+ 40% climate change) and demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event (plus climate change) will not exceed the run-off from the undeveloped site following the corresponding rainfall event;

- iii) include a timetable for implementation of the scheme, including any phasing; and,
 - iv) provide a management and maintenance plan for the scheme for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) No development shall take place, including works of site clearance, unless and until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in full accordance with the approved CEMP which shall remain in force for the construction period. The CEMP shall include, but is not confined to, details of:
- the hours during which construction work, including works of site clearance, and deliveries to/from the site can take place;
 - construction traffic routes and points of access/egress to be used by construction vehicles;
 - site management arrangements including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
 - on-site wheel cleaning facilities;
 - dust mitigation and suppression measures;
 - a timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed;
 - protection measures for all retained trees and landscaping, including details of protective fencing and its position relative to all retained trees and hedgerow;
 - a construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, including vegetation, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling;
 - the procedure for consultation and complaint management with local business and neighbours.
- 11) No development shall take place, including works of site clearance, unless and until an Ecological Enhancement Strategy (EES) has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in full accordance with the approved EES, with all features retained thereafter. The EES shall include, but is not confined to the following:
- details of the purpose of and conservation objectives for the development hereby permitted, informed by a review of the ecological assessment;
 - detailed design(s) and/or working method(s) to achieve the agreed conservation objectives;
 - the extent and location/area of proposed works on appropriately scaled plans, including type and source of materials to be used where appropriate;

- a timetable for implementation;
 - persons responsible for implementing the works;
 - details of initial aftercare and long-term maintenance and management.
- 12) No development shall take place, including works of site clearance, unless and until a written scheme of archaeological investigation and resource management has been submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved scheme, which shall include, but is not confined to:
- i) an assessment of significance based on a staged approach;
 - ii) the programme and methodology of site investigation and recording;
 - iii) a programme for post investigation assessment;
 - iv) provision for analysis of the site investigation and recording;
 - v) provision for publication and dissemination of the analysis and records of the site investigation;
 - vi) provision to be made for archive deposition of the analysis and records of the site investigation;
 - vii) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.
- 13) Before commencement of any above ground works associated with the construction of any dwelling, a scheme of measures to source 10% of the energy demand for the development from renewable or low carbon sources, and to ensure that the development achieves a water efficiency standard of 110 litres per person per day (105 litres for internal use plus 5 litres for external use) shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and no dwelling shall be occupied unless and until the approved measures for it are in place and operational.

Pre-Occupation Conditions

- 14) No dwelling shall be occupied until the junction of the vehicular access with Broad Street, including pedestrian access points and visibility splays of 2.4 x 90 metres, has been constructed in accordance with the details shown on drawing No ITM13310-SK-004c. Thereafter, the visibility splays shall be kept permanently clear of any obstruction to visibility.
- 15) No dwelling shall be occupied unless and until the footway along the site frontage onto Broad Street has been increased to 2 metres in width and a traffic calming scheme along Broad Street has been implemented, all in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 16) No dwelling shall be occupied unless and until an updated residential travel plan which has previously been submitted to and approved in writing by the local planning authority, has been implemented in accordance with the approved details. The travel plan shall include, but is not confined to, details of:
- predicted travel to and from the site and targets to reduce car use;
 - existing and proposed transport links, including links to pedestrian, cycle and public transport networks;
 - measures to minimise private car use and facilitate walking, cycling and use of public transport;

- a timetable for implementation of the agreed measures designed to promote travel choice;
 - provision for monitoring, reviewing and updating the travel plan annually for a period of five years;
 - marketing and publicity for sustainable modes of transport to include site specific welcome packs. The welcome packs are to include:
 - walking, cycling, public transport routes to/from/within the site
 - site specific travel and transport information, including copies of relevant bus and rail timetables
 - travel vouchers incentives
 - details of the appointment of a travel plan co-ordinator
- 17) No dwelling shall be occupied until a fire hydrant serving that property has been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Contamination

- 18) Any contamination found during the course of development not previously identified shall be reported immediately to the local planning authority. Development on the affected part of the site shall be suspended until an investigation strategy and risk assessment and, where necessary, a remediation strategy and verification plan dealing with how the unsuspected contamination is to be dealt with, has been submitted to and approved in writing by the local planning authority. No dwelling on that part of the site shall be occupied until the measures identified in the approved remediation strategy and verification plan have been completed, and a verification report demonstrating completion of the approved remediation works and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority.

Lighting

- 19) No external lighting (excluding that in residential curtilages relating to domestic properties) shall be installed other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

-----END OF SCHEDULE-----