

# CD6.14

## Appeal Decision – Dunton

### **Preface:**

This appeal decision is important because it deals with a scheme of 16 dwellings allowed where, despite the Council demonstrating a 5-year housing supply, the benefit was given substantial weight which is relevant to the consideration of various types of housing provided by the appeal scheme.

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



## Appeal Decision

Site visit made on 10 October 2023

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

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Appeal Ref: APP/P0240/W/23/3317184

Land to the south of Biggleswade Road, Dunton, Bedfordshire SG18 8RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Grand Union Housing Group against the decision of Central Bedfordshire Council.
  - The application Ref CB/21/05125/FULL, dated 28 October 2021, was refused by notice dated 9 September 2022.
  - The development proposed is entry level exception scheme of 16no dwellings with access onto Biggleswade Road, parking and landscaping also parking for no 2 Biggleswade Road.
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### Decision

1. The appeal is allowed and planning permission is granted for entry level exception scheme of 16no dwellings with access onto Biggleswade Road, parking and landscaping and also parking for no 2 Biggleswade Road at land to the south of Biggleswade Road, Dunton, Bedfordshire SG18 8RL in accordance with the terms of the application, Ref CB/21/05125/FULL, dated 28 October 2021, subject to the conditions in the attached schedule.

### Main Issues

2. The main issues are:
  - whether the development is well located with regard to its access to services and facilities;
  - the effect on the living conditions of the occupiers of 2 Biggleswade Road with respect to private outdoor amenity space;
  - the effect of the loss of Best and Most Versatile agricultural land (BMV);
  - whether there are any other material considerations that indicate a decision other than in accordance with the development plan policies.

### Reasons

#### *Access to services and facilities*

3. It is not in dispute that the site adjoins, but lies outside, the settlement boundary of Dunton and that the proposal would not constitute any of the forms of development, as set out in policy SP7 of the Central Bedfordshire **Local Plan (the 'Local Plan')**, that may be considered acceptable in such locations. The development would therefore conflict with policy SP7.
4. Moreover, Dunton is a village with a limited range of services. Although there is a church, a pub, a village hall and a school, there are no shops. There is a bus

service which runs along Biggleswade Road, but there are only a handful of buses each day. Biggleswade is the nearest town, but pedestrian access is not convenient in terms of its distance and the lack of pavements along the road towards it. Cycling however would not be particularly unattractive as the distance is not exceptional and the route is reasonably flat, and although I note the reference to an accident, I have no further information on the background to that.

5. Overall the site is not well located in terms of its access to services and facilities by sustainable means and so there would be conflict with Local Plan policy T1 which aims to ensure proposals reduce the need to travel and secure a modal shift towards sustainable forms of transport. However, there are some basic facilities in Dunton, there is a bus service linking the village to larger towns, and cycling access to the nearest town is feasible. Moreover, paragraph 105 of the National Planning Policy Framework (the '**Framework**') recognises the difference between rural and urban areas in terms of the opportunities for modes of sustainable transport. Indeed, despite being outside the settlement boundary, the access to such services and facilities from the proposed dwellings would be comparable to that from some existing dwellings in this rural village. As such I give only moderate weight to the conflict with policies T1 and SP7.

#### *Living conditions*

6. The access road to the development would utilise land to the side of No 2 which is currently a garden. The remaining garden would be substantially smaller than at present. Nonetheless, it would remain to be reasonably sized for the dwelling it serves and would not be dissimilar in size to other gardens at other properties nearby. It would allow for the occupiers of that property to carry out usual outdoor domestic activities and hence it would not harm their living conditions. The development would therefore accord with Local Plan policy HQ1 which requires proposals to not adversely impact upon the amenity of existing users.

#### *Agricultural land*

7. Mostly, the site is an open agricultural field totalling less than 0.7ha which, I understand, is likely to be Grade 2 or possibly Grade 3a. Both grades are defined as constituting BMV agricultural land in the Framework. The appellant's '**Agricultural Considerations**' report suggests that the area of agricultural land lost would not be significant; a view shared in the Council's **officers report**. From my site visit, the actual area of the site that would be usable for agricultural production is even smaller given the trees and bushes that occupy the eastern end of the site.
8. Individual losses of BMV agricultural land could cumulatively have a significant impact on wider agricultural production. Nonetheless, in this case, because the site is not significant in size, and because there are few areas locally which are of lesser agricultural quality, it is considered that its loss would not have an unacceptably harmful effect on the supply of BMV agricultural land. The proposal would therefore comply with Local Plan policy DC5 which seeks to prevent the significant loss of BMV agricultural land.

*Other material considerations*

9. The 16 entry level homes would comprise six shared ownership properties and 10 houses for social rent. A completed planning obligation has been provided which would ensure these tenures are provided.
10. Paragraph 72 of the Framework supports the development of entry-level homes unless the need for such homes is already being met within the district. The consultation response from the Council's Housing Officer welcomes the development as a whole and states that the provision of 10 social rented units meets the acute need for this tenure. This indicates the need is not already being met in the district.
11. The Framework goes on to state that such houses should be on sites not already allocated for housing, offer one or more types of affordable housing, be adjacent to existing settlements and be proportionate in size to them, comply with local design policies and do not compromise protection given to assets of particular importance. The main parties agree all these criteria are met and though the provision of 16 units would be a substantial development for a small village, it would not be disproportionate taking account of the thresholds in the Framework for entry level sites<sup>1</sup> which it would not exceed.
12. Even though the Council, overall, has a 5-year supply of housing, and there may be a good supply of social rented housing in Dunton already, the provision of 16 affordable units within a district where there is an acute need for social rented properties, is a considerable benefit and is one to which I give substantial weight.

Other Matters

13. The submitted planning obligation includes a number of undertakings for the appellant to provide contributions towards infrastructure.
14. The Bedfordshire, Luton and Milton Keynes Clinical Commissioning Group have suggested residents of the development would place additional demands on the Ivel Medical Centre and Saffron Road Health Centre in Biggleswade. They calculate a contribution of £13,040 would be necessary to mitigate the effect of the development. From the evidence before me, I consider the figure is reasonable, directly related to the development and is necessary. The obligation therefore meets the tests as set out in Regulation 122 of the Community Infrastructure Levy Regulations (the 'Regulations').
15. **The Council's Education Spending Officer has identified schools locally that** children from the development would be likely to attend, including Dunton Lower School. I understand most schools in the district are in the process of restructuring and so whilst the Spending Officer identifies the required contributions for Lower, Middle and Upper schools, the figures in the undertaking are framed in terms of Primary and Secondary schools. However the total sum is the same. The total figure seems reasonable, the contribution is necessary and would be directly related to the development. The obligation therefore meets the tests in the Regulations.
16. The Council's **Leisure** Spending Officer advises a contribution of £22,000 would be necessary for upgraded play equipment at Dunton Recreation Ground. The

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<sup>1</sup> one hectare in size or 5% of the size of the existing settlement

evidence before me indicates that developments of more than 10 dwellings would require a Local Area for Play (LAP) and in light of lack of space on site, provision off site would be a suitable alternative. Also, **the Council's Leisure Strategy** states that quality enhancements are recommended in areas of new development where provision is already sufficient in quantitative and access terms, but where residents are likely to increase use of existing facilities. The **Council's Children's Play Provision Guidance 2022 states that new** LAPs cost around £25,000, so the figure requested for improvements to the existing play equipment seems reasonable. The contribution also would be directly related to the development and is necessary to mitigate the impact from it. As such the obligation meets the tests in the Regulations.

17. The Council's **Community Halls** Spending Officer calculates that a contribution of £17,525 would be necessary to help fund improvements to the Dunton Village Memorial Hall and St Mary Magdalene Church Hall. However whilst the calculation appears reasonable, there is no evidence to suggest improvements are necessary to make the development acceptable. The 2013 Central Bedfordshire Leisure Strategy; Village and Community Halls only identified that improvements to the Dunton Recreation Association Pavilion were planned for 2013. There is no reference to the Church or Village Hall in this document, nor in the 2017 Village Halls & Community Buildings Survey 2017, and I have not been provided with any more recent document. Indeed this 2017 document highlights that fully costed proposals will be required in order to inform requests for Section 106 funding towards refurbishment or new build projects. I have no costed proposals before me. As such this obligation does not meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations nor the advice in paragraph 57 of the Framework. I have therefore not taken it into account.
18. The development would not project any further into the countryside from the main road than the small collection of homes to the east, and there are other examples in the village of houses on minor roads leading from the main road. The development would therefore not be inconsistent with the pattern of built form in Dunton. Moreover, the proposal itself is well designed insofar as the space between dwellings is comparable with others in Dunton, and all properties have reasonably sized gardens.
19. The increase in traffic would not be excessive such that Biggleswade Road would not be able to accommodate it. Furthermore, I have no evidence to suggest the condition of Biggleswade Road would be materially worsened by the modest increase in traffic.
20. A number of large trees near the access would be retained, and a scheme of ecological enhancements can be secured by a planning condition to ensure ecological concerns are addressed. In addition, boundary treatment can be strengthened to ensure there would be no unacceptable loss of privacy for neighbours. I have no reason to consider noise from the occupation of the development would be any more disturbing to adjoining residents than that resulting from existing neighbours.

#### Conditions

21. Where necessary, and in the interests of clarity and precision, I have slightly altered the recommended conditions to more closely reflect the advice in the Framework and the national Planning Practice Guidance.

22. I have attached the standard conditions relating to the commencement of the development and the approved plans in the interests of certainty. In order to protect the character and appearance of the area I have attached conditions relating to finishing materials, tree protection, external lighting, and hard and soft landscaping which would include details of boundary treatment and materials used in the vehicular areas. In the interests of protecting the amenity of neighbouring residents, conditions are included requiring a window at unit 1 to be obscurely glazed, and a construction method statement. In the interests of ensuring the safety of the residents of the development, conditions relating to the treatment of any contamination and the provision of fire hydrants are necessary.
23. It is necessary to attach conditions relating to the provision of electric vehicle charging and cycle parking to promote low emission modes of travel, and in the interests of sustainable design a condition relating to the implementation of the Sustainability Statement is attached. A condition relating to the installation of broadband is necessary to support social well-being.
24. Conditions relating to surface water drainage are necessary in the interests of minimising flood risk. Also, conditions requiring compliance with the Ecological Impact Assessment and licencing relating to great crested newts are necessary in the interest of biodiversity. A number of conditions, necessary in the interests of highway safety, relating to the provision of the new access, vehicle and pedestrian visibility and parking throughout the development, are attached. Should the access road not be adopted as public highway, it would be necessary to submit details of a waste collection scheme to ensure the development is properly serviced.
25. I have not attached the suggested conditions relating to foul water, as the scheme is shown on the approved plans and fine details would be covered by other legislation. Similarly the arrangements for the re-positioning of the footpath sign and telegraph pole would be matters for the appellant to agree with the relevant bodies.
26. There is no justification before me as to why the provision of an informal pedestrian crossing point outside the school, which is some distance from the site, would be necessary to make the development acceptable.
27. I see no reason why it would not be possible to access the rear gardens of plots 2, 3 and 12 with a cycle using the accessways shown on the plans. Also any overrunning by cars over the footways to serve plots 13 and 14 would be very minimal. It would be unnecessary therefore to require amendments to the plans in these regards.

## Conclusion

28. The proposal would conflict with policies T1 and SP7 as the site is outside the settlement boundary, and is not well located in respect of its access to services and facilities. However, for the reasons given above, I give moderate weight to the conflict with these policies.
29. The benefits of the scheme in providing 16 entry level units of affordable housing, including 10 social units for which there is an acute need, carries substantial weight and outweighs the harm resulting from the conflict with those policies. The preservation of the living conditions of the occupiers of No 2

and the lack of harm caused to the supply of agricultural land are neutral factors.

30. As such, although there is conflict with the development plan, material considerations indicate a decision to be made other than in accordance with the development plan. Accordingly the proposal would accord with Local Plan policy SP2 which allows for decisions to be made other than in accordance with the development plan if material considerations indicate otherwise.

31. For these reasons, and taking account of all other considerations, the appeal is allowed.

*A Owen*

INSPECTOR

### Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LO-02, PL-01 Rev R, PL-010 Rev C, PL-011 Rev D, PL-012 Rev C, PL-013 and GUHG23274-03 Rev A.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until details of hard landscaping works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before any dwelling is first occupied.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping as shown on drawing no. GUHG23274-11A shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 6) All the trees and hedges shown on drawing no. GUHG23274-03 Rev A as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 7) The dwelling at plot 1 hereby permitted shall not be occupied until the first floor side facing window has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained as such thereafter.
- 8) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) No dwelling shall be occupied until a fire hydrant serving that dwelling has been installed in accordance with details outlining the provision of fire hydrants at the development have first been submitted to and approved



in writing by the local planning authority. The approved fire hydrants shall be retained as such thereafter.

- 10) Prior to the construction of the vehicular parking areas associated with the approved dwellings, a scheme for the charging of electric and ultra-low emission vehicles shall be submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- a) details of active charging posts or passive provision such as cabling and electricity supply for each dwelling;
  - b) timescales/triggers for implementation of the scheme.

The development shall be completed in accordance with these approved details including the agreed timescales/triggers.

- 11) No development shall take place until details of a full-fibre broadband connection (or the closest viable alternative) to each residential property has been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 12) The development shall not be occupied until details of any external lighting, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) No dwelling shall be occupied until the surface water drainage scheme as shown on drawing no. 403-FRA03 has been fully installed as approved.
- 14) No dwelling shall be occupied until a finalised Maintenance and Management Plan for the entire surface water drainage system in accordance with the Flood Risk Assessment (Ref 403-FRA-01-0) dated October 2021 and drawing no. 403-FRA03, has been submitted to and approved in writing by the local planning authority. The Plan shall include any adoption arrangements and/or private ownership or responsibilities.
- 15) No development shall take place until an Ecological Enhancement Strategy (EES) in accordance with the recommendations in the Ecological Impact Assessment (Ref GUHG23274 Rev B, dated 8 July 2022) has been submitted to and approved in writing by the local planning authority. The EES shall include the:
- a) purpose and objectives for the proposed works;
  - b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
  - c) extent and location of proposed works shown on appropriate scale maps and plans;
  - d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - e) persons responsible for implementing the works;
  - f) details of initial aftercare and long-term maintenance.

The works shall be carried out strictly in accordance with the approved details and shall be retained as such thereafter.

- 16) No development shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR112) and the proposals detailed on plan 'Land South of Biggleswade Road: Impact Map for great crested newt District Licensing (Version 1)' dated 26th July 2022.
- 17) No development shall take place until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved in writing by the local planning authority and the local planning authority has provided authorisation for the development to proceed under the district newt licence.
- 18) The development hereby approved shall be carried out in complete accordance with the Sustainability Statement (Ref 21104, Rev A dated 21st October 2021). No dwelling shall be occupied until a verification report has been first submitted to and approved in writing by the local planning authority. The verification report shall demonstrate how the development and each dwelling has been designed and constructed in accordance with the approved Statement.
- 19) No dwelling shall be occupied until the junction between the proposed access road and the public highway has been constructed in accordance with the approved details as shown on drawing no. PL01 Rev R.
- 20) No dwelling shall be occupied until the visibility splays of 2.4m x 43.0m at the junction of the proposed access and the public highway shown on drawing no. PL-01 Rev R are provided. The required splays shall remain free of any obstruction exceeding a height of 600mm above the adjoining footway level.
- 21) The proposed access and parking provision for 2 Biggleswade Road shall be constructed in accordance with the approved details as shown on drawing no. PL-01 rev R prior to the removal of the existing access to that dwelling.
- 22) The pedestrian visibility splays as indicated on either side of the parking spaces on drawing no. PL-01 Rev R shall be maintained free of any obstruction exceeding a height of 600mm above the adjoining footway level.
- 23) No dwelling shall be occupied until the car parking spaces and the turning zone have been laid out within the site in accordance with drawing no. PL-01 Rev R. Those spaces shall thereafter be kept available at all times for those purposes.
- 24) No dwelling shall be occupied until cycle parking has been laid out within the site in accordance with drawing nos. PL01 Rev R and PL-013. The cycle parking shall thereafter be kept available for that purpose.
- 25) The car ports for plots 3, 4, 10 and 11 shall remain to be open sided and shall be kept available at all times for parking.
- 26) If the access remains private and not adopted highway, details of a refuse collection scheme shall be submitted to and approved in writing by the local planning authority prior to the occupation of any dwelling. The

development shall be carried out in accordance with the scheme thereafter.

- 27) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
  - ii) loading, unloading and storage of plant and materials used in constructing the development;
  - iii) the erection and maintenance of security hoarding affecting the highway
  - iv) wheel washing facilities;
  - v) measures to control the emission of dust and dirt during construction;
  - vi) footpath/footway/cycleway or road closures needed during construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.