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## Appeal Decision

Inquiry held on 24 November 2015

Site visit made on 27 November 2015

**by Frances Mahoney DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 February 2016**

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**Appeal Ref: APP/P0240/W/15/3003634**

**16 Langford Road, Henlow, Bedfordshire SG16 6AF**

- 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 Gladman Developments Ltd against the decision of Central Bedfordshire Council.
  - The application Ref CB/14/01728/OUT, dated 2 May 2014, was refused by notice dated 5 August 2014.
  - The development proposed is outline planning permission for 93 dwellings. Access from Langford Road, Henlow. Demolition of number 14 & 16 Langford Road, Henlow.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The Inquiry sat on 24, 25, 26 and 27 November 2015 and was closed in writing on 8 December 2015<sup>1</sup>. The appeal related to an outline application with all matters, other than access, reserved for future consideration. Along with the location plan (red line plan 2013-001(A)<sup>2</sup>), the suggested access-option 1 priority junction plan (F0032-001-001<sup>3</sup>) is relevant as it shows the proposed access point from Langford Road<sup>4</sup>. Along side these plans, the planning application was accompanied by, amongst other informative plans and documents, a development framework/block plan (5542-L-02 Rev I<sup>5</sup>). This reflected the location of the proposed access onto Langford Road. It seeks to set out, in illustrative terms, how a development of 93 dwellings could come forward on the appeal site, including proposed road layout, open space and footway/cycle routes and their linkages with existing public footpaths.
3. At the Inquiry the appellant company requested that the scheme for 93 dwellings<sup>6</sup> be substituted by a scheme for 72 dwellings. The proposed red line appeal site would remain the same as would the position and details of the proposed access. However, the development framework/block plan (5542-L-02 Rev I) would be superseded by Revision O (5542-L-02 Rev O<sup>7</sup>). This requested

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<sup>1</sup> Inquiry Doc 20.

<sup>2</sup> CD 1.2.

<sup>3</sup> CD 1.2.

<sup>4</sup> Which requires the demolition of nos 14 & 16 Langford Road.

<sup>5</sup> CD 1.3.

<sup>6</sup> See description of development CD 1.1.

<sup>7</sup> CD 3.03 along with other addendums to relevant supporting documents.

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change came about following the consideration of an earlier planning appeal decision relating to an identical outline proposal<sup>8</sup> on the appeal site which was dismissed in November 2014<sup>9</sup> (the earlier decision). The appellant company considered given the content of the earlier appeal decision, it would be possible to address the concerns of my colleague by means of a rebalancing exercise. This involved a proposed reduction in the developable area, with a much larger area of proposed open space and landscaping.

4. The appellant company undertook a series of consultations<sup>10</sup> over a period of some 8 months (January, March & August 2015), to engage with local residents in respect of the proposed revised scheme. These consultations followed on from the public consultations on the earlier appeal as a planning application (July 2013) and subsequently as an appeal (October 2014) and from the second planning application (May 2014), now the subject of this appeal (January 2015). I heard from Mr Jewel, a local resident, and from the Council that there had been confusion for residents as to exactly what they were being consulted upon, its status and effect. I am not surprised in respect of the perplexity of residents in relation to the changing scheme. The sheer number of consultations carried out would have been likely to evoke not only confusion, but also fatigue in terms of responding at each stage.
5. In addition, over the three periods of consultation undertaken by the appellant company in 2015, relevant to the proposed change, three different distribution lists were used with the number of residents notified varying from 169 (January 2015), 801 (March 2015) to 555 (August 2015). The implication of the wide variation in consultation numbers is that some households consulted in March were not consulted in January or August. The shifting level and extent of consultation would have resulted in some local residents being excluded. Any consultation sets up a reasonable expectation of future engagement for those receiving the request for comment.
6. Whilst I appreciate the proposed amendment would result in a reduction in the overall number of dwellings on the appeal site, the confusion of residents likely fuelled by the volume of consultations; the fact that the material specific to this proposed change came directly from the appellant company and not the Council; the lack of consistency in the extent of the consultation process; and as non-planning professionals, a possible understandable lack of comprehension of the process by some local residents, are all factors which lead me to the view that I cannot be sure that those who should have been consulted on the changed development have not been deprived of that opportunity to comment<sup>11</sup>. Therefore, the proffered change in the illustrative development framework/block plan (5542-L-02 Rev I) to Revision O (5542-L-02 Rev O) is rejected<sup>12</sup>.
7. The appellant company also contends that within the 93 dwellings proposed it would be possible to build a lesser number, with reserved matters reflecting 72

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<sup>8</sup> For 93 dwellings.

<sup>9</sup> APP/P0240/A/14/2215889 – CD 9.01

<sup>10</sup> Three in total, in January 2015, March 2015 and August 2015. The extent of these consultations is set out at paragraph 12 of Inquiry Doc 2.

<sup>11</sup> Taking into account the terms of the 'Wheatcroft' judgement - CD 10.05.

<sup>12</sup> This matter was dealt with at the beginning of the Inquiry by means of submissions on behalf of the Council (Inquiry Doc 1) and the appellant company (Inquiry Doc 2) and a subsequent Inspector's ruling delivered orally. That ruling took into account that the Henlow Parish Council had actively discouraged residents from responding to the consultation (this was confirmed by Bert Schrier in oral evidence). The level of response is not at issue here. It is the variation in offers of engagement from the appellant company which is at issue.

dwelling and a larger area of open space and landscaping. That may be so but that would be the subject of a reserved matters application which would be open to public consultation/ comment, determined by a future decision-maker. I am charged with considering the development proposed which is described as 'for 93 dwellings'. I do not have a remit to change the description of development. To consider a lesser scheme within the overall stated maximum number, at this stage, would be ill-defined and imprecise. It would be contrary of me as decision-maker, having rejected the substitution of the 93 dwelling scheme<sup>13</sup>, to then go on to consider the 72 dwelling scheme by reason of some possible future dilution of the overall development under the terms of this appeal proposal.

8. The appellant company has suggested the imposition of a planning condition restricting the composition of the proposed development to no more than 72 dwellings. This is proposed in conjunction with a promise within the submitted Unilateral Undertaking (UU)<sup>14</sup> which includes reference to the open space for use by the general public being a minimum size of 2.51 hectares<sup>15</sup>.
9. I appreciate the promise of this increased area of open space has come about as a direct result of the intention of the appellant company to proceed with a development of 72 dwellings. However, that change in the appeal proposal has been rejected<sup>16</sup>. So, in the context of a development for 93 units, its impact would be to concentrate development in a much smaller area thereby potentially increasing density and the effect on the character and appearance of the landscape. In the face of the rejection of the change to the lesser number of units I have given the promised increased area of open space and the imposition of the condition little weight in the balance of this decision<sup>17</sup>.
10. Reason for refusal 2 dealt with the absence of a satisfactory mechanism to secure financial contributions to local infrastructure and the provision of affordable housing. The parties have worked collaboratively to establish and agree the provisions within the completed UU for the appeal site. The UU agreement made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) promises the delivery of on-site public open space, the provision of a management company with responsibility for the open space etc, and the payment of contributions towards education, highways, transport, village hall, indoor and outdoor sports. Other than the contribution to early years provision (under the heading education) all have been found to be necessary, reasonable and justified in accordance with Regulations 122 & 123 (3) of the Community Infrastructure Levy Regulations 2010<sup>18</sup>. In addition, under the terms of an agreed promoted condition, a scheme for the required affordable housing<sup>19</sup> would need to be approved before work commenced.
11. The disagreement relating to early years provision centres on whether there is an additional need for extra spaces to accommodate children from the proposed development. The Council's position is that an extension to

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<sup>13</sup> For reasons of a lack of surety of appropriate public engagement

<sup>14</sup> Inquiry Doc 3.

<sup>15</sup> This would be a larger area than that shown on the Development Framework/Block Plan 5542-L-02 Rev I, more in line with the area shown on Rev O.

<sup>16</sup> Paragraphs 3-6 of this decision.

<sup>17</sup> Promoted positive benefits would include increasing the size of the extension to the Millennium Meadow, and the amount of potential landscaping within the river valley.

<sup>18</sup> Inquiry Documents 3, 4, 5 & 6.

<sup>19</sup> 35% of proposed housing units in accordance with CS policy CS7.

Raynsford Lower School is required to increase capacity for 2, 3 and 4 year olds. This may be so but the appellant company highlight that the private sector also contributes to early years education provision. There is spare capacity in four nurseries within 6.5 kilometres of the appeal site<sup>20</sup>. The Henlow Village Pre-School<sup>21</sup>, however, has no current capacity, although I appreciate this may fluctuate throughout the year. The acknowledgement of the need for an extension to the Lower School and lack of capacity in private provision within the village indicates to me that those living in the village may be forced to seek access to early years schooling some distance from Henlow. I appreciate the relationship between local authority provision and private provision is rather blurred but it is clear that provision of whatever kind close to the appeal site is at capacity and so, in my view, the contribution is justified in this instance.

12. Other than the disagreement on the early years education point, the Council did not defend reason for refusal 2 and based on the justifying evidence submitted I do not consider it necessary to question this aspect of the proposal further.
13. Off to the south of the appeal site is the Grade I listed church of St Mary the Virgin. It was no part of the case in opposition that the appeal proposal would impact upon the setting or preservation of the listed building<sup>22</sup>. The significance of the church is that of a prominent landmark feature within the village representing part of the historic evolution of the settlement. It lies within a churchyard setting, including an extension to the burial grounds, next to the Millennium Meadow and the River Ivel. However, modern residential development in Church Road and along Gardeners Lane and Northfield Close form a significant part of its setting. The appeal proposal would be distant to the church and its churchyard, with existing intervening housing, sufficient so as not to harm the significance of the heritage asset, thereby preserving the setting of the listed building.

### **Main Issues**

14. Therefore, from the evidence before me, including all that I have seen and read, the main issues are:
  - the effect of the proposal on landscape character and appearance; and
  - whether the appeal proposal constitutes a sustainable development in the countryside, having regard to national and local policies on the supply of housing land.

### **Planning Policy/Housing Land Supply**

15. The National Planning Policy Framework (the Framework) acknowledges that it is highly desirable that local planning authorities should have an up-to-date plan in place. The Council was engaged in the production of the Central Bedfordshire Development Strategy (CBDS). Initial examination hearings were undertaken in February 2015. The Examining Inspector then set out interim

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<sup>20</sup> Inquiry Doc 5.

<sup>21</sup> 785 metres from the appeal site – private provision.

<sup>22</sup> Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special regard shall be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. I have undertaken this statutory duty in my assessment of this case.

- concerns in relation to compliance with the Duty to Co-operate, suggesting the Plan should be withdrawn or await the final report. The Council has now withdrawn the emerging development strategy<sup>23</sup> and considers that no weight should be given to the policies contained therein<sup>24</sup>.
16. There is a Neighbourhood Plan in preparation to cover Henlow. However, it is in the early stages of preparation with the identification of housing sites being the next stage. There has been no public consultation undertaken and there is no promoted date for the adoption of the plan<sup>25</sup>. The parties agreed it did not form part of the development plan and that no weight could be ascribed to the Neighbourhood Plan in its early stage of emergence. In addition, no party relied on any aspect of the Neighbourhood Plan in evidence.
  17. The development plan includes the saved policies of Mid Bedfordshire Local Plan, First Review (2005), the Central Bedfordshire Core Strategy and Development Management Policies (2009) (CS) and the Central Bedfordshire (North) Site Allocations Development Plan Document (2011) (SADPD)<sup>26</sup>. All of these documents pre-date the Framework. Therefore, paragraph 215 of the Framework is engaged, setting out that the weight to be given to relevant policies, in such existing plans, depends on their degree of consistency with those within the Framework.
  18. The Council is relying on the CS as the relevant policy foundation in this case.
  19. The appeal site lies outside the settlement envelope for Henlow<sup>27</sup>. The specified settlement boundary would have been fixed having regard to the need to accommodate development planned up to 2026. The appeal site was not allocated for development within the Site Allocations DPD (2011)<sup>28</sup>.
  20. CS Policy DM4 deals with development within settlement envelopes<sup>29</sup>, although it does acknowledge that where no land is available within the settlement, a site adjacent to the settlement may be granted planning permission. Nonetheless, the fixed settlement envelopes would have the effect of constraining development, including housing, within these settlements.
  21. CS Policy CS16 recognises the countryside outside settlements as being a highly valued resource and should be protected for its own sake, safeguarding it from the increasing pressures of development. Policy DM14 goes on to identify that any development that has an unacceptable impact on landscape quality will be resisted. I do not find a tension between these two policies. Their overall objective is to protect the character and amenity of the countryside of which the appeal site forms part.
  22. However, whilst this overall policy approach does reflect the spirit of one of the core planning principles of the Framework, namely that of recognising the intrinsic character and beauty of the countryside<sup>30</sup>, it is inextricably linked with the constraining effect of the settlement boundaries on the housing

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<sup>23</sup> November 2015.

<sup>24</sup> Andrew Marsh in oral evidence. The Council has commenced work on a new local plan, but this is still at the scoping stage with no mile stones set although the intention is to meet the Government deadline of 2017.

<sup>25</sup> Bert Schrier in oral evidence.

<sup>26</sup> Both latter documents informed by the data and policies of the Regional Strategy (now revoked).

<sup>27</sup> Will be treated as open countryside.

<sup>28</sup> Paragraph 3.3.1 of the Statement of Common Ground.

<sup>29</sup> It is common ground between the parties that the proposal is contrary to CS Policy DM4 – Statement of Common Ground - paragraph 2.2.5.

<sup>30</sup> Paragraph 17, bullet point 5 of the Framework.

requirement. Therefore, I consider CS Policies DM4, DM14 and CS16 are relevant policies for the supply of housing within the meaning of paragraph 49 of the Framework and I shall appraise the weight to be afforded to them accordingly.

### *Housing requirement*

23. Paragraph 47 of the Framework seeks to boost significantly the supply of housing. It identifies that Councils should ensure that their local plans meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of either 5% or 20% (moved onward from later in the plan period), to ensure choice and competition in the market for land.
24. The parties agree that the application of the 'Sedgefield Method' to addressing past under-delivery is appropriate and further that a 20% buffer should be added to the five year requirement given previous persistent under delivery. The calculation of the 5 year housing land supply is agreed as being on the basis of 5 year target + shortfall + 20% buffer<sup>31</sup>.
25. The Council also agrees that the housing requirement in the adopted CS is out-of-date<sup>32</sup>. Therefore, in the absence of an up-to-date local plan, the Council has relied on the full objectively assessed need for housing (OAN) figure set out in the Luton & Central Bedfordshire Strategic Market Assessment Update (Summer 2015) (SHMA)<sup>33</sup>, that being 29,500 dwellings<sup>34</sup> or 1,475 basic annual requirement<sup>35</sup>. The appellant company disputes this figure and utilises the OAN of 1,757 dwellings per annum as set out in the GVA document Objective Assessment of Housing Needs October 2015<sup>36</sup>.
26. The SHMA is a technical document intended to inform the formulation of the local plan strategy. Whilst it has not been through the process of examination, it was undertaken to establish the OAN for housing across the Luton and Central Bedfordshire Housing Market Area (HMA). I agree with my colleague in the earlier decision that this HMA is the most useful and appropriate option, particularly as neighbouring authorities were involved in a Steering Group that informed the SHMA process.
27. This appeal is not the forum to carry out a forensic analysis of the SHMA. I have noted the concerns of the appellant company that the reliance upon Census data for migration projections and a failure to properly account for market signals, in their view, would increase the dwellings per annum figure<sup>37</sup>. It was accepted that the Office of National Statistics do not consider Census data to be completely accurate. However, there are risk factors attributable to all data sources. The Census, whilst infrequent, provides estimates of long-term migration patterns. As a document which informs local plan making, the SHMA must look to the long-term without the danger of being influenced by

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<sup>31</sup> Statement of Common Ground (paragraph 5.1.1)

<sup>32</sup> Statement of Common Ground paragraph 2.2.21

<sup>33</sup> CD15.13.

<sup>34</sup> This overall total includes 7,400 dwellings of affordable housing over the plan period.

<sup>35</sup> This gives a basic 5 year requirement of 7,375.

<sup>36</sup> Baker Appendix VI.

<sup>37</sup> By an increase of 140 dpa.

short-term trends. Sensitivity testing may be an approach which should be considered but for the purposes of this appeal I am satisfied that the use of the Census data permeating through the substance and conclusions of the SHMA is appropriate. In reaching this view I am mindful that the difference between the mid-year estimates as the starting point and the Census data on the unadjusted housing need figures would likely be academic.

28. In considering market signals these should be assessed with reference to HMA. The SHMA approach is to draw comparisons with HMAs which exhibit similar demographic and economic characteristics. This does not necessarily mean neighbouring local authority areas. These may not be comparable with the extent and characteristics of the HMA. This is a judgement to be made and I am not convinced that the approach taken in the SHMA in this regard is unjustified.
29. Therefore, whilst I accept that some adjustments may be required to the OAN<sup>38</sup>, as a result of the matters raised by the Examining Inspector, and in the formulation of a new local plan, this is a matter which requires further work, consideration, consultation and examination. I do not consider it is my role to set an OAN for the District. In my view, to the extent that it has been considered at the Inquiry, the SHMA represents a robust source of base data to establish the housing requirement. As a result the Council's OAN in all probability would not be less than 29,500 dwellings over the plan period. I have considered the five year housing land supply (5YHLS) on this basis.

#### *Housing land supply*

30. Both parties agree that the most appropriate base date to use in the calculation of the housing land supply is the 1 April 2015<sup>39</sup>. The Council did then provide additional supply data relating to planning permissions on newly identified sites issued after 1 April 2015. This also included taking into account lapses of permissions since the April base date. Paragraph 47 of the Framework (second bullet point) does indicate the supply of deliverable sites should be identified and updated annually. This is not prescriptive in the sense that circumstances may justify a more regular up-dating of the supply, particularly as land availability is in a constant state of flux. However, whilst I appreciate that this may have been an approach adopted at previous appeals<sup>40</sup>, I am not convinced that this application of supply beyond the base date is undertaken in a balanced way. The base date remains the same but the supply moves on 6 months being then measured against a 4.5 year completion requirement. It seems to me for the overall calculation of housing land supply to remain in balance it would be necessary to move the base date for the calculation of the 5YHLS forward to the 30 September 2015.
31. The Council has undertaken that exercise<sup>41</sup> and using a base date of 1 October 2015 their requirement would be 9,724, including the shortfall and the 20% buffer, with supply being 9,969. This gives a surplus of 245 units by their calculations. The Council accepted that were that number of units to be

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<sup>38</sup> The Council conceded a number of adjustments to their OAN figure over the course of the Inquiry.

<sup>39</sup> Statement of Common Ground paragraph 5.1.2.

<sup>40</sup> Deddington Inquiry – APP/C3105/A/13/2201339.

<sup>41</sup> Table appended to Council's Closing Submission – Inquiry Doc 18.

- discounted from their declared supply they would not be able to demonstrate a 5YHLS<sup>42</sup>.
32. A number of sites were disputed between the parties as being appropriate to include in the 5YHLS<sup>43</sup>. I do not intend to go through all of the sites, only those where I consider there is relevant doubt in respect of the extent and timing of delivery<sup>44</sup> of housing within the trajectory<sup>45</sup>.
33. Land at Arlesley (HT005) is a Council owned site allocated in the SADPD with an adopted Masterplan<sup>46</sup>. No planning permission has yet been granted. The development is linked to a relief road project. The Council could not provide reassurance that the funding for the relief road was secured or a timetable for its provision. The Council relied upon 125 dwellings being delivered on this site within the 5YHLS although it was not clear whether any units could be delivered prior to the delivery of the relief road. There is no contract of sale for the site either in whole or part and no indication of how many house builders may be involved. This site can be considered to be available in the sense that the Council wish to sell it. However, with no planning permission and no clear forward moving position on its inter-dependence with the relief road, particularly in relation to the funding of this associated infrastructure, I am not persuaded on the evidence before me that there is a realistic prospect of delivering the 125 dwellings suggested by the Council even with delivery being reserved to the latter part of the trajectory. The apparent lack of costings and identification of funding streams for the relief road also gives me concerns in respect of the viability of the site.
34. Land North of Houghton Regis (Site 1) (HT057) is part of a larger site to deliver over 5000 dwellings. Outline planning permission has been granted allowing commencement within 5 years with phasing over a 20 year period. A phasing strategy will be required for a site of this scale. The site is being promoted by a consortium of 10 landowners, but as yet there is no named house builder involved. Albeit that a timetable has been agreed between the parties to give an indication of delivery there is still a lot of work to do to facilitate completion of 50 units in 2017/18 as the Council suggest<sup>47</sup>. The matter of equalisation across the site has also to be resolved before disposal. No reserved matters applications have been submitted as yet although some work on design codes is underway. Whilst I appreciate some work is progressing I heard nothing which gave me confidence that the aspirational timetable for delivery would be adhered to without slippage. The lack of involvement of house builders and extent of work still to be undertaken in the context of this exceptionally large overall development, including the necessary supporting infrastructure, are factors which serve to dissuade me from accepting the Council's trajectory of initial delivery of units in 2017/18. In these circumstances it is more realistic to consider units becoming available in the latter years of the trajectory. As a

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<sup>42</sup> Ms Dilley in cross-examination. Using the 1 April 2015 base date the surplus would be 211 units – Inquiry Doc 18.

<sup>43</sup> Inquiry Doc 8.

<sup>44</sup> For sites to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable<sup>44</sup>.

<sup>45</sup> Inquiry Doc 8.

<sup>46</sup> 850 dwellings in total.

<sup>47</sup> Inquiry Doc 8.

result I consider the trajectory of the appellant company, in respect of this site, to be more realistic reducing delivery by some 160 units.

35. HT058 is also part of the larger Houghton Regis site (Site 2). It is anticipated that the development will deliver 50 dwellings in 2017/18 with a total of 300 before April 2020. The promoted timetable does seem optimistic that a commencement of reserved matters in late summer 2016 could result in an autumn commencement of development, particularly taking into account there is no house builder/builders involved at this stage. Any delay at this point would have an impact on when and how many dwellings would be completed. I therefore favour the appellant company's more conservative estimate of delivery of 240 by April 2020, reducing the trajectory by some 60 units.
36. I have also noted that a number of the development sites within the trajectory were not identified within the now withdrawn CBDS. Whilst some of the sites have now gained planning permission others still remain as yet uncommitted. The position of these sites, having been neither tested through the process of recent plan examination nor through a planning application, does reduce the weight I ascribe to their realistic contribution to the promoted 5YHLS. This adds to my unease in relation to whether the Council's promoted housing land supply can be considered available, deliverable, suitable and viable. Having discounted some 345 dwellings from the supply, based on the evidence before me, I have little confidence that the overall assessment of land available to meet a 5YHLS is robust and can be relied upon.
37. Therefore, I conclude that on this evidence the Council has not demonstrated a five year supply of deliverable housing sites in the District. Framework paragraph 49 sets out that in such circumstance relevant policies for the supply of housing should not be considered up-to-date. Whilst a lack of a five year land supply of deliverable housing land does not provide an automatic 'green light' to planning permission a balance must be struck. The deficiency in land supply would carry substantial weight in that decision balancing exercise.

#### *Conclusion on this issue*

38. The proposal would cause harm to adopted policy objectives which seek to restrict development in the open countryside. However, the objectives of CS Policies DM4, DM14 and CS16 remain broadly consistent with those in the Framework which requires decision makers to recognise the intrinsic character and beauty of the countryside. To the extent that the policies are concerned with these matters I consider that they continue to attract due weight.
39. However, as already identified they are, in part, policies for the supply of housing. The adopted settlement boundaries reflected requirements to 2026 which will inevitably have to be reviewed in light of current requirements<sup>48</sup>. There have also been changes to some aspects of national policy. In addition, the Council does not have a 5YHLS and therefore, to the extent that the policies are concerned with the supply of housing, they must be regarded as out-of-date.
40. For the above reasons, the weight given to the harm caused by a breach of the relevant CS policies is reduced by them being out-of-date and by virtue of the lack of the 5YHLS.

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<sup>48</sup> These settlement boundaries were predicated on housing requirements based on now revoked RS policy.

41. Framework paragraph 14 confirms that, where the relevant policies of the development plan are out-of-date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, taken as a whole or specific policies in the Framework indicate development should be restricted. It is necessary then to consider whether the impacts arising from granting planning permission are adverse and whether they would significantly and demonstrably outweigh the benefits of that permission in addressing the housing shortfall. This is a further consideration to be weighed into the balance of my decision.

*Impact - Character and appearance*

42. The appeal site lies on the north-east edge of Henlow. It lies within the river valley in a low lying, gently sloping position falling from Langford Road down to the flat valley bottom. It is essentially an open agricultural field without any particular, distinguishing features of merit. It also adjoins established modern residential development to the south and west and the Millennium Meadow to the east and south-east with the River Ivel beyond.

43. Millennium Meadow is an area of public open space which links through to Gardners Lane, St Mary's Church and on into the historic heart of the village. Existing public footpaths, including a footbridge over the River Ivel, cross the meadow, as well as part of the appeal site, allowing for ready access into the expansive open countryside which surrounds the village. The countryside character is one of predominantly arable farmland, with hedgerow bounded fields and scattered woodland.

44. The River Ivel is a dominant feature of the immediate landscape. It meanders its way through the Upper Ivel Clay Valley<sup>49</sup>, and in the vicinity of the appeal site evidence of old mineral workings in the form of fishing ponds persist.

45. Development along Langford Road and Gardners Lane amounts to part of an undistinguished modern urban extension to historic Henlow, spreading out along connecting roadways, typical of settlements in this character area. The development along Langford Road stands at a highpoint with particular visual dominance in the wider landscape.

46. Gardners Lane, a comparatively recent development, follows the slope of the valley side, immediately adjoining Millennium Meadow. With some houses built up out of the ground<sup>50</sup>, including raised rear deck areas, little attempt has been made to limit the visual impact of this edge of settlement development which sweeps down, brazenly addressing Millennium Meadow. The visual prominence of this existing development is obvious when viewed from the network of footpaths on both sides of the River and off to the north, as well as from the riverside open space.

47. The relationship of this hard urban edge to Millennium Meadow is immediate in the vicinity of Gardners Lane. This includes the comings and goings of the daily lives of residents<sup>51</sup>, including leisure time in their gardens<sup>52</sup>. Development in Langford Road is more at a distance, but the scale and

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<sup>49</sup> Character area 4c - Mid-Bedfordshire District Landscape Character Assessment.

<sup>50</sup> Due to change in ground level.

<sup>51</sup> There is a car park at the end of Gardners Lane serving Millennium Meadow.

<sup>52</sup> This would be more apparent when the raised decked areas are in use

- massing of the houses, as well as the obvious rear fence line and a distinct awareness of traffic along High Street and Langford Road accentuates its prominence in the landscape. The juxtaposition of modern housing development with the open river valley is thereby established.
48. Overall, the character of Millennium Meadow is variable for those using the open space and walking the footpaths. In the vicinity of Gardners Lane as well as along a considerable part of the footpath which skirts the appeal site boundary users could not fail but to be aware of the close-by urban settlement<sup>53</sup>. The sense of being away from the village in a more rural environment increases with distance from the built-up area. In the close vicinity of the River, crossing the River or walking off to the north, Henlow seems distant and one is absorbed by the river and its valley landscape.
49. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by (amongst other matters) protecting and enhancing valued landscapes, although the term 'valued landscapes' is not defined. Whilst the landscape here is clearly valued by local people, it does not include specific attributes or landscape features which would take it out of the ordinary sufficient for it to amount to a 'valued landscape' in terms of the Framework<sup>54</sup>.
50. That said landscape is about the relationship between people and place. It provides the setting for our day-to-day lives. This is a landscape in which people spend their leisure time. They experience it both up-close and at a distance.
51. The appeal site does form part of the wider rural setting of the River Ivel. However, proximity to existing residential development and distance to the Millennium Meadow and the River are both factors which must be considered in assessing the impact of the proposal in landscape terms.
52. The appeal proposes 93 dwellings covering much of the site. The Development Framework/Block Plan<sup>55</sup>, whilst illustrative does give an indication of how such a development might be accommodated. It shows development sweeping down the slope of the site towards the River, halted by a long, wide buffer of landscaped open space, laid out to include an equipped play area and new footpath/cycleway<sup>56</sup>. Development would extend beyond the line of Gardners Lane in close proximity to the River and its open valley bottom. There is no doubt that any development of the appeal site would lead to a change in character and appearance of what is an agricultural field. Whilst I appreciate that the sensitivity to change of this landscape might be moderate, with the river valley bottom itself remaining unaltered, a development of the number proposed would not fail to be immediately apparent to those using the Millennium Meadow and its associated footpaths. Even given the landscaped buffer/open space at the size proposed, whilst extending Millennium Meadow, it would not provide the isolation necessary either in landscape terms or in respecting the quieter more tranquil parts of Millennium Meadow already identified.

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<sup>53</sup> Walking in either direction.

<sup>54</sup> Whilst my colleague mentions paragraph 109 of the Framework in the earlier decision, I am satisfied that on the strength of the evidence I heard using Box 5.1 of the Guidelines for Landscape and Visual Impact assessment as a starting point, my conclusion in this regard is justified.

<sup>55</sup> Dwg no 5542-L-02 Rev I.

<sup>56</sup> Proffered as an extension to Millennium Meadow

53. As a result the development would unacceptably erode the rural setting of the river valley neither conserving nor enhancing the varied countryside character or quality of the wider landscape. In this way the terms of CS Policy CS16, DM4 and DM14 would be unacceptably compromised, in so far as they relate to taking account of impacts on the character and quality of landscape<sup>57</sup>.

*Contribution to the achievement of sustainable development*

54. There are three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependant.

*Economic role*

55. The proposal would enhance/contribute to the economic role by the creation of jobs associated with the construction stage. New residents are also likely to support existing local services and businesses, with a possible increase in local jobs as a result. In addition, future Council tax payments and New Homes Bonus would be spent in the area. These are positive contributions to fulfilling the economic role which, in combination with the other economic benefits, I ascribe considerable weight.

*Social role*

56. The proposed housing would fulfil a social role by contributing to the support, strengthening, health and vibrancy of the local community by providing towards a supply of housing to meet the needs of present and future generations. This would include the provision of 35% affordable housing<sup>58</sup> needed within the District<sup>59</sup>.

57. The development proposals also include enhancements to the local footpath network which would serve to maintain access for recreational purposes promoting the wellbeing of the local population. Upgrades to local bus stops as well as access improvements to local schools are also identified as benefits of the proposal. Contributions towards local sports facilities and a play area are also promised.

58. Where these elements would enhance local facilities and support the well-being of the local community over and above their aim of mitigating the effects of the proposed development, a positive weighting of substance is applied.

59. In respect of both the economic and social strands of sustainability the Council accept that these would be met by the proposal<sup>60</sup>. In light of the above assessment I have no reason to disagree.

*Environmental role*

60. The proposal would provide an extension to Millennium Meadow which would add to the area of open space to be enjoyed by residents. It would also introduce further planting in the river valley in contrast to the existing hard urban edge. The proposed landscaped area would also provide opportunities for improved biodiversity.

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<sup>57</sup> Consistent with the core principles of the Framework.

<sup>58</sup> Secured by means of an appropriately worded condition.

<sup>59</sup> SHMA identifies an affordable housing need of 363 dpa.

<sup>60</sup> Paragraph 55 of Council's closing – Inquiry Doc 18.

61. However, even given the above positive factors in the balance of the environmental role of the proposal, due to the significant identified harm to the character and appearance of the countryside, these adverse effects would result in considerable environmental detriment.

*Overall conclusion on sustainability*

62. On balance the adverse harm identified within the environmental role relating to character and appearance, outweighs the environmental, social and economic advantages of the scheme. Therefore, I conclude the appeal proposal would not constitute sustainable development as prescribed by the Framework. Taking into account the golden thread of the presumption in favour of sustainable development which runs through the Framework, I ascribe this finding substantial weight.

**Conclusion and balance**

63. Sustainable development is about change for the better. The appeal proposal would assist in the provision of much needed housing<sup>61</sup> in the local area and the District in general. This is a highly significant material consideration and carries substantial weight in the context of paragraph 49 of the Framework. It would also have a social and economic role to play in achieving positive growth both now and in the future.

64. However, such benefits would be at significant cost to the intrinsic character and beauty of the landscape. In this instance I find that the adverse effects identified to character and appearance weighs more heavily against the proposal than the identified positive elements.

65. The presumption in favour of sustainable development set out in paragraph 14 of the Framework applies only to sustainable development. Taking this conclusion into account along with all other considerations set out above, including the contribution of the proposal to addressing the shortfall in housing supply, on balance, I conclude that the adverse impacts of the appeal proposal<sup>62</sup> would significantly and demonstrably outweigh the benefits of granting planning permission contrary to national and local policy. Therefore, the appeal should fail.

*Frances Mahoney*

Inspector

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<sup>61</sup> Including affordable housing. I afford the deficiency in land supply substantial weight in the balancing exercise.

<sup>62</sup> At the extent of 93 dwellings.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Alexander Booth Of Counsel	Instructed by Andrew Emerton Solicitor to the Council
He called	
Jonathan Lee BSc (Hons)	Managing Director of Opinion Research Services
Andrew Marsh BSc (Hons) MA MRTPI	Acting Senior Planning Officer – Strategic Planning and Housing Team
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### FOR THE APPELLANT:

Peter Goatley Of Counsel	Instructed by Gladman Developments Ltd
He called	
Timothy Jackson BA(Hons) Dip LA CMLI	Partner/Director FPCR Environment and Design Ltd
Tom Baker BA (Hons) MA MRTPI	Associate GVA
Richard Lomas BSc (Hons) DipTP MRTPI	Hourigan Connolly
Christopher Still BSc (Hons) MRICS	Gladman Developments Ltd

### INTERESTED PERSONS:

Bert Schrier	Clerk to Henlow Parish Council
Philip Jewel	Local Resident

## **DOCUMENTS**

- Doc 1 Position of Central Bedfordshire Council in relation to the intended amendments to the appeal proposal
- Doc 2 Submissions on behalf of the appellant in respect of the proposed amendment of the appeal scheme to 72 dwellings
- Doc 3 Unilateral Undertaking dated 27 November 2015

Doc 4 S106 Briefing Table stating appellant position and LPA justification including Regulation 123 compliance

Doc 5 Response from the appellant to contributions sought in respect of Site at 14, 16 and land to the rear of Langford Road, Henlow

Doc 6 Planning Obligations Supplementary Planning Document (north)

Doc 7 Great Lifestyles – Chapters 1 & 3

Doc 8 Summary Housing Land Supply Position (24 November 2015)

Doc 9 Statement with respect affordable housing need in Central Bedfordshire  
26 November 2015

Doc 10 Report to Development Management Committee – 11 November 2015 –  
Land to the East of High Road, Shillington

Doc 11 Highways and landscape comments

Doc 12 Calculating the five year requirement as 1 October 2015

Doc 13 Listing of Church of St Mary the Virgin

Doc 14 Houghton Regis North - HT057

Doc 15 Letter re HT005

Doc 16 Henlow Parish Council's Statement

Doc 17 APP/A0665/A/14/2214400

Doc 18 Closing Submissions of Central Bedfordshire Council including Response on  
Matters of Law

Doc 19 Outline Closing Submissions on Behalf of the Appellant

Doc 20 Email dated 8 December 2015 closing the Inquiry

## **PLAN**

Plan A Proposed new cycleway between Arlesey Station and Henlow