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## Appeal Decision

Inquiry Held on 10-13 and 17 November 2020

Site visits made on 9 and 16 November 2020

**by P W Clark MA(Oxon) MA(TRP) MRTPI MCM I**

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

**Decision date: 2 December 2020**

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**Appeal Ref: APP/K0235/W/20/3256134**

**Land between Hookhams Lane and Ravensden Road with access via 25 Hookhams Lane, Salph End, Bedford MK41 0JU**

- 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 Manor Oak Homes against the decision of Bedford Borough Council.
  - The application Ref 1/01974/MAO, dated 9 September 2019, was refused by notice dated 24 June 2020.
  - The development proposed is up to 400 dwellings, land for a new primary school, open space, drainage, footpath improvements and vehicular access.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application is made in outline form. Details of two vehicular accesses to the site are provided but other details of access together with details of layout, scale, appearance and landscaping are reserved for later consideration in the event of the appeal being allowed, so those matters are considered only in principle and are not examined in any detail in this decision.
3. Revised plans of the two detailed vehicular accesses were submitted with the Highways Statement of Common Ground dated 30 October 2020. I am asked to base my decision on these two plans. They had not been made the subject of consultation with the public but, as I was assured that they contained no material changes, just the correction of errors, I am satisfied that nobody would be prejudiced if I were to base my decision on them, which I have done.
4. Notwithstanding the two detailed plans of vehicular access, the appellant's advocate made a contingent request that if the appeal on the adjoining site (Number 27 Hookhams Lane (APP/K0235/W/20/3253651)) were allowed prior to the decision on the current appeal, then access in the current appeal would become a reserved matter. This is because it is recognised that permission for an access to be formed at 27 Hookhams Lane would necessitate a reconsideration of access to the present appeal site. In the event, the contingency has not arisen.
5. A revised Parameters Plan was submitted with Mr Armstrong's Proof of Evidence dated October 2020. It too had not been the subject of consultation

with the public but, as it is an illustrative plan the substance of which would need to be the subject of detailed or reserved matters applications, even though it forms part of the submitted s106 obligation, I am satisfied that nobody would be prejudiced by the omission of consultation on it at this stage.

6. Two unaccompanied site visits were made, the second informed by an itinerary suggested by the two main parties. By agreement, no formal accompanied visit was deemed necessary.

### **Main Issues**

7. The main considerations in this appeal are the effects of the proposal on:
  - the spatial strategy of the area
  - the character and appearance of the area
  - archaeology
  - best and most versatile agricultural land
  - highway safety and sustainable travel
  - the supply of housing in general and affordable housing in particular
  - the demand for and supply of local infrastructure such as education, health care and open space and play facilities
8. By the time of the Inquiry, the two main parties had reached agreement on several of these issues so that Inquiry time was mostly spent on the spatial strategy, the character and appearance of the area and housing land supply. Third parties continued to pursue other issues, especially highway safety and sustainable travel. In addition, because of the proximity to the site of a scheduled ancient monument and several listed buildings there is a duty (statutory in the case of the listed buildings) to have special regard to the desirability of preserving the heritage assets or their setting or any feature of special architectural or historic interest which they possess.

### **Reasons**

#### *The spatial strategy of the area*

9. The spatial strategy for Bedford Borough is set out in five policies in chapter 6 of the Bedford Borough Local Plan 2030 recently adopted in January 2020. All new development will be required to contribute towards achieving the stated objectives and policies of the plan through the nine criteria of policy 3S.
10. Excluding those which apply solely to non-residential development, the strategy can be summarised as; establishing new areas for urban living in Bedford's urban core south of the river Great Ouse; the completion of Wixams new settlement and strategic urban and village extensions to the west of Bedford at Wootton, Stewartby and Shortstown; a strategic village expansion utilising brownfield land at Stewartby; strategic residential development in key service centres; limited development in rural service centres and careful management of development in the countryside to meet local needs, delivering the majority of rural growth through neighbourhood plans. Policies 4S, 5S, 6 and 7S quantify and elaborate upon the basic framework set by policy 3S.

11. In contrast, the site of this appeal is located outside Bedford's urban core, to the north of the town, a little outside its present extent and unrelated to any defined key or rural service centre. Both main parties agree that it would be contrary to Local Plan policy 7S which sets out the circumstances in which development in the countryside would be permitted.
12. Nevertheless, the appeal site is not without its intrinsic merits in terms of the spatial strategy; it is adjacent to the defined Settlement Policy Area of Salph End; within walking distance of a local grocery store and post office, a public transport route and some other local facilities; and it would provide that settlement with education provision and open space facilities. Most of the site was included as an allocation in a consultation version of the Local Plan before its adoption. The eventual decision to exclude the site from the plan was judged by the Inspectors who examined the plan to be a reasonable one, although they note that the matter was clearly finely balanced. It is again included in options being considered in the current review of the Local Plan and so, it is not unreasonable for the appellant's advocate to imply, as he does in his closing remarks, that it is a matter of when, not if<sup>1</sup>, the site is to be developed.
13. I therefore conclude that although, as a matter of fact, the development of this appeal site would be contrary to the published strategy of the Local Plan as adopted, the resultant harm to that strategy would be small, largely limited to an undermining of confidence in the plan-led system. Nevertheless, the law requires planning proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. I now turn to consider some of the other material considerations in this case.

*Character and appearance*

14. The area of the site approximates to an irregularly-shaped square with four sides facing north-west, south-west, south-east and north-east. It is divided into two unequal parts (approximately 1:4) by a stream running north-south parallel to its south-western boundary. The larger part slopes gently down towards the stream from a point close to about half-way along its north-eastern boundary from which there is also a short decline towards the Ravensden Road which forms about half of the north-eastern boundary.
15. Other than the plot known as 25 Hookhams Lane, currently occupied by a bungalow, which would be demolished to provide access, the site is in arable agricultural use and therefore has a rural character and appearance. The immediate effects of the proposal would be transformational, replacing the agricultural use with an estate of houses, a school and managed open space. The character and appearance of the site would thus change from rural to urban.
16. Many people would regard such a change as inherently harmful. Although the National Planning Policy Framework (NPPF) contains an environmental objective, which includes the protection and enhancement of our natural environment, that is only one of three equal and interdependent objectives which also include the provision of land of the right type, in the right place and at the right time to support growth and to ensure that a sufficient number and range of homes can be provided. It is not government policy to protect all

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<sup>1</sup> He actually said "if, not when" in paragraph 2 of his closing but the context implies the converse.

countryside for its own sake above all else but to recognise its intrinsic character and beauty when making planning decisions.

17. The effects of the change of its character in the wider context is not as clear cut as would be the transformation of the site itself. Within the Council's district-wide landscape character assessment, the site forms part of the Renhold Clay Farmland Landscape Character Area 1E and shares many of its defined characteristics but it forms so small a part of the Landscape Character Area that its development would have little or no effect on the Landscape Character Area overall.
18. Although neither main party has prepared a Zone of Visual Influence (ZVI) study, it is quite clear from the evidence submitted that the site is largely contained in visual terms and so has little influence on the character or appearance of the wider landscape. Outside the site itself, views of the site can be obtained as part of the panoramic views of Bedford from footpaths 21 and 28 running along the brow of the hill on the further side of Renhold Brook<sup>2</sup> about half a mile away to the north-east of the site and from the Mowsbury Hill iron age hillfort scheduled monument about half a mile away to the north-west but all other points from which the parties identified viewpoints of the site are from within the site itself or very close to it.
19. In the views from footpaths 21 and 28 the site forms a small part of a wide panorama. It does not greatly signify in the view. It appears not as part of an extensive agricultural landscape but as an isolated piece of farmland sandwiched between woodland including Marsh Wood associated with Struttle End on the one hand and the heavily treed environment of Salph End on the other, with the built up area of Salph End and Bedford lying behind. Ravensden Road forms a clear boundary on a small ridge between the more open agricultural landscape of the foreground and the more treed and partly developed middle ground including the site.
20. Historic England points out that the elevated location of the Mowsbury hillfort within its immediate landscape setting and its role as a fortified site within that landscape gives rise to an inherent significance of views outwards from the rampart over the surrounding countryside. Special regard must be given to the desirability of preserving heritage assets or their setting or any feature of special architectural or historic interest which they possess.
21. The appeal site can indeed be seen from next to the electricity pylon at the eastern edge of the hillfort precinct. It is viewed across the manicured sward of the golf course which both provides an immediate setting in the foreground to the iron age fort and keeps the defensive slope of the hill open. The golf course extends further on flat land at the base of the hill before the site is reached. Houses in Salph End are visible immediately behind the site and to its north-east.
22. The development would mostly lie to the far side of the stream which divides the site and which would form a natural boundary to development when viewed from this direction. If the parameters plan is followed, built development would approach no closer to the scheduled monument than would the existing development of Bedford to the south-west. It would remain separated from the defensive slope of the hillside by at least the equivalent of two flat fields

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<sup>2</sup> So named on Ordnance Survey Map. Google has it as Ravensden Brook

below the hill and so I conclude that the proposal would cause no harm to the setting of the scheduled monument.

23. When experienced from the site itself, the existing settlement of Salph End abuts and wraps around the eastern corner of the site, extending part way along both its north-eastern and south-eastern flanks. It is a settlement of two parts.
24. From its highest point, the topography of the site dips down to meet the older part of Salph End, which lies along Ravensden Road, outside the Settlement Policy Area defined in the Local Plan. This older part comprises a few large houses in extensive grounds on the west side of Ravensden Road, including Salph End Farm house and Abbey Farm house, both listed buildings and, on the east side of Ravensden Road, development more in depth in Brook Lane and Brookside, either side of Renhold Brook<sup>3</sup>, including a group of listed cottages on Ravensden Road itself (numbers 27-31 and 33-35, Abbey Croft and Moon Cottage). These help this part of the settlement to retain the character of a rural village.
25. Abbey Farm house was once closely associated with the site but, as the appellant's Heritage Statement demonstrates, that connection was severed in the 1990s by the demolition of the associated farm buildings, their replacement with a new detached property, Carlton House, lying between Abbey Farm house and the site and the definition of a new residential curtilage to Abbey Farm house itself.
26. For that reason, together with the topography of the land, existing tree and shrub planting and fencing which screens Abbey Farm house, Salph End Farm house, Abbey Croft and Moon Cottage, I concur with the findings of the appellant's Heritage Statement, that these listed buildings are not experienced in conjunction with the site and so the site makes no appreciable contribution to their setting. It follows that the development of the site would cause no harm to the setting or significance of these listed buildings.
27. The more modern part of Salph End was developed in the 1960s, partly as ribbon development along Hookhams Lane almost to the present built up edge of Bedford and partly in depth at Home Close and Brickfield Road. It has a suburban character only distinguishable from the generality of the suburbs of Bedford by the historic alignment of the road and the individuality of design on a number of plots.
28. There is a concern, expressed in the Council's reasons for refusal, that development of the appeal site would lead to a coalescence of Salph End with the general extent of Bedford. In truth, that has already happened; there is the slightest of visual breaks between the suburban housing of Bedford to the south of Wentworth Drive and the first dwellings of Salph End at the southern end of Hookhams Lane adjoining the Wentworth Drive roundabout. That visual break comprises not rural agricultural fields but a piece of municipal public open space. Further to the east, there is a larger area of open land between Salph End and recent extensions to Bedford at Maskell Drive and Markham Rise which is subject to a "Local Gap" policy designation but the appeal site lies to the north-west of Salph End and would remain separated from the remainder

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<sup>3</sup> According to Ordnance Survey map; Google has it as Ravensden Brook

- of Bedford by an area of open (though not rural) land comprising the Mowsbury Golf Course and the playing fields of Mark Rutherford Upper School.
29. Between them, the older and newer parts of Salph End abut approximately 20-25% of the boundary of the site. The remainder of the south-eastern boundary of the site abuts a derelict field which is the subject of a proposal for a further residential development, currently under consideration at appeal. The south-western boundary of the site abuts the Mowsbury Golf Course. Although green and open, this does not have a rural character. Indeed, further to the west, where its driving range, club house and squash courts adjoin the Mowsbury hillfort, it has a distinctly suburban character.
  30. The north-western boundary of the site abuts Marsh Wood and the extensive (and extensively-treed) grounds of residential properties fronting Ravensden Road at Struttle End. The trees give it a quasi-rural feel but Struttle End is suburban development in a rural setting. Finally, the remaining half of the north-eastern boundary of the appeal site, on Ravensden Road, adjoins more open rural countryside, extending to the north-east.
  31. The development of the appeal site would eliminate this limited continuity of rural agricultural use on either side of Ravensden Road. It would possibly be replaced by a 20m landscaped buffer if the parameters plan is followed in the submission of reserved matters. But in any event, as noted above, in the panoramic view from the higher ground to the north-east, Ravensden Road appears to form a natural boundary in the landscape at this point.
  32. The development proposed would also tend to the coalescence of Salph End and Struttle End, reducing their separation to an area of woodland and the 20m deep landscape buffer suggested in the Parameters Plan. But, it is a characteristic of the various Ends of Renhold that they rather dribble one into another with little clear separation so I do not count this as inimical to the existing character of the area.
  33. In summary, although the appeal site itself is agricultural and has a rural character, it is a peninsula of rural agricultural character largely surrounded by land with non-rural (though in most cases rural-compatible) uses and characteristics. It makes little contribution to the wider Landscape Character Area of which it forms a part. Its development would result in the loss of its own rural and agricultural character but there is little to show that the urban character of the new development which would replace it would not be attractive or incompatible with its immediate surroundings.
  34. The quantity of development on site would be comparable to that of Salph End itself but would not overwhelm the existing settlement because of the way Salph End wraps around the site and, if the parameters plan is followed, because buffer zones would tend to isolate the new development from the old. The site would be sufficiently large and separate to manifest its own character and so I am not troubled by suggestions that buildings would rise to 11m in contrast to the bungalows which are common along Hookhams Lane and Home Close.
  35. Figures were mentioned of a relatively high density of dwellings on the part of the site that would be developed if the parameters plan were followed but density is not a good guide to character or appearance because a dwelling is not a standardised visual unit of measurement. It can vary between a studio

flat and a multi-bedroomed mansion, so the same density can have many different characters or visual manifestations depending on the dwelling mix of the detailed scheme.

36. Although the site is undoubtedly appreciated locally as a place to walk on agricultural land and as an undeveloped neighbour for parts of Salph End, it is not a valued landscape in the way the term is defined in paragraph 170(a) of the NPPF. It is an unremarkable piece of agricultural land. It has no special designations requiring its protection. Rather, its western part is subject to saved policy AD24 Green Infrastructure Network Opportunity Zones from the Allocations and Designations Local Plan adopted 2013 where, amongst other matters, development is expected to deliver green infrastructure in accordance with the priorities set out for each opportunity zone. Those for zone 6, which includes the western part of the appeal site are;

- Delivering the north west section of the Bedford Green Wheel project to create a green access route around and into the town.
- Creating new accessible woodland linking Clapham Park Wood, Mowsbury Park, Putnoe Wood and Renhold Brook
- Conserving existing historic parkland and improving interpretation, particularly around Renhold, Clapham Park Wood and Howbury Park.
- Enhancing the existing public open spaces, and improving the interpretation of historic environment features such as the hillfort and moat on Mowsbury Hill, a scheduled monument.
- Creating walking, cycling and horse riding routes linking villages to the north of Bedford with the northern section of the Bedford Green Wheel.
- Managing and enhancing ancient woodlands and hedgerows, and linking habitats through adjacent green spaces associated with schools and sports fields.

In response to my question about the implementation of this policy, the Council's witness responded that it would be implemented through the approval of development proposals.

37. I therefore conclude that any harm to the rural character of the area resulting from this development would be of little consequence beyond its effect on the site itself and that some benefits to character and appearance through the implementation of policy AD24 would accrue. Although the development would contravene Local Plan policy 7S (as agreed by both main parties), there is no reason to suppose that its detailed design would conflict with policy 37 (landscape character) or with policy 28S (place-making) in general. Indeed, the s106 obligation which accompanies the appeal provides for green infrastructure which would comply with part (iii) of the latter policy and with policy AD24 of the Allocations and Designations Local Plan.

#### *Archaeology*

38. There is no information which would lead me to reject the Statement of Common Ground which has been reached between the main parties. A previous geophysical survey that identified several areas of probable archaeological remains had led the Council to request a field evaluation by trial

trenching. The scope of this evaluation was defined in a Written Scheme of Investigation dated September 2020. The subsequent trial trenching identified archaeological remains of putative Iron Age - Roman date. The parties agree that archaeological remains identified are not of such significance as to prevent development and that any further archaeological works that are required in order to preserve the remains by record so as to mitigate the harm caused by development works can be secured and implemented by means of a suitably worded condition attached to any grant of planning permission. I conclude that the proposal would comply with Local Plan policy 41S(ii).

*Best and Most Versatile agricultural land*

39. I have no reason to dispute the parties' agreed position that the site is 80% grade 3a and 19% Grade 2 agricultural land<sup>4</sup>. It is therefore a site which is defined by the NPPF as Best and Most Versatile agricultural land (BMV land) the economic and other benefits of which paragraph 170(b) of the NPPF advises should be recognised. Local Plan policy 46S does not bar the use of BMV land but seeks the use of poorer quality land in preference. The evidence suggests that there is very little land of poorer quality available and that nearly half of Bedfordshire comprises agricultural land of superior quality, including sites allocated for development in the Local Plan. So, although definitive proof that there is no land of poorer quality which could have been used is not provided, I conclude that there is unlikely to be a conflict with Local Plan policy 46S. In any event, both parties agree, and I do not demur, that the issue is not determinative of the appeal by itself but the NPPF advice is a matter to be weighed in the balance.

*Highway safety and sustainable travel*

40. Local residents complain of existing traffic volumes and speeds on Ravensden Road and Hookhams Lane and of the ineffectiveness of existing controls. Those are matters which cannot be laid to the blame of the development proposed. Subsequent to the Council's refusal of permission a comprehensive package of off-site highway works to address highway safety concerns, highway capacity and sustainable travel links between the application site and local secondary schools and other local amenities has been agreed between the two main parties. Some elements of this package would be secured through the submitted s106 agreement; others would be secured by condition.
41. At face value some of these would seem to have little direct connection with the appeal proposal and so might be thought to contravene CIL regulation 122. In response to my specific question, the Council explained that "maintenance" of an existing footway/cycleway in fact meant a one-off action to reverse encroachment of vegetation resulting from underuse so as to re-instate the capacity of the asset to deal with expected footfall from the development, rather than an ongoing maintenance liability which should be met through the Council's routine funding. The Council's modelling of the likely dispersion of traffic generated by the site was given as the reason for the necessity of works to improve the safety of junctions somewhat distant from the site but with an existing poor safety record.
42. Although the elements to be required by condition are specified in as great a detail as in the parties' Statement of Common Ground, those to be secured by

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<sup>4</sup> The remaining 1% is in non-agricultural use, ie the site of 25 Hookhams Lane.



the s106 agreement are covered by a more loosely worded provision. However, it would be capped to a financial limit and so I am satisfied that the provision complies with the requirement for planning obligation provisions to be fairly and reasonably related in scale and kind to the development.

43. With these conditions and obligations in place, I conclude that the proposal would adequately address highway safety concerns, highway capacity and sustainable travel links between the application site and local secondary schools and other local amenities. It would therefore comply in those respects with the relevant parts of Local Plan policies 2S (iii), 7S (x), 29 (v), 31, 33, 53 (i), 86S, 87, 88 and 89 which require the provision of sustainable travel modes and safe transport infrastructure to serve the development.

*Housing and affordable housing*

44. The development proposed would provide up to 400 dwellings. That represents approximately 41% of the annual average housing requirement for Bedford established in its Local Plan. Another way of looking at, more relevant to the fact that it would be built out over a number of years, it is to say that it would represent about 8.25% of the Council's average five-year housing requirement which is set at 4,850 dwellings.
45. The government seeks to boost the supply of housing, so any housing proposal must be regarded as providing a degree of benefit to set against any harm which the development may cause. The significance of the benefit is judged by reference to the Borough's housing need and its performance in meeting that need. The NPPF advises that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of their housing requirement and that, if they cannot do so, the "tilted balance" described in NPPF paragraph 11(d) should be applied in favour of the proposal.
46. National Guidance is that when dealing with appeals, the latest available evidence should be used. The Council's latest available evidence, published in June 2020 is its "5 Year Supply of Deliverable Housing Sites 2019/2020 – 2023/2024: Update to May 2019." This predicts the supply for the five-year period from 1 April 2019 to 31 March 2024. The COVID-19 epidemic has hampered the preparation of a more up-to-date supply prediction and so, both main parties are agreed that, for the purposes of this appeal, it is the April 2019 to March 2024 period which should be used. I have no information with which to do otherwise.
47. A complicating factor is that the Local Plan period over which the objectively assessed need for 14,550 new homes was identified, starts in 2015, so that four years of the plan period have already passed before the period of the current five-year prediction begins. During that first four years, the Council's performance has exceeded its averaged requirements by 1048 dwellings.
48. Government policy and advice is silent on how that front-loaded over-performance should be recognised in identifying future five-year supply projections. The Inspectors who examined the Local Plan recommended that what they saw as the "benefit" of the front-loaded performance should be spread out over the remaining eleven years of the plan period. But that was in the section of their report where they were seeking to establish whether or not the plan provides for an adequate supply of housing land for the following five

- years. They concluded that the Council could, at the time of their report, demonstrate a deliverable supply of 5.4 years and retain the benefit of the oversupply to count against future years' projections. Had they taken a different view of how to deal with the earlier overperformance, the figure would have been much higher than needed to demonstrate that requirement. They did not need to take a different view in order to establish what needed to be established.
49. Earlier in their report<sup>5</sup> the Local Plan inspectors recognise that "*levels of housing delivery almost inevitably vary considerably from year to year across a plan period*" and that it is not sound to base policy on such vagaries. I apply that dictum to this appeal decision.
50. In paragraph 115 they set out clearly what their considerations were in recommending how the early overperformance should be accounted for in future years; "*not offsetting the future requirement figure to reflect past oversupply could, in practical terms, mean that an adopted local plan which is on track to deliver, or even exceed, the housing requirement figure for the full plan period, could be rendered out of date simply because more dwellings had been completed in some past years and fewer forecast to be completed in the coming years than the annual average requirement.*"
51. That same intent should still apply. A local plan which is on track to deliver, or even exceed, the housing requirement figure for the full plan period should not be rendered out of date simply because more dwellings have been completed in some past years and fewer forecast to be completed in the coming years than the annual average requirement. At the present time, fewer dwellings are forecast to be completed in the current five-year accounting period than the annual average requirement, due in part to the current epidemic depressing rates of construction.
52. If all the early overperformance is taken into account in the current five-year accounting period, the Council will still be on track after nine years to deliver the housing requirement for the full plan period. It simply means that for the final six years of the plan period, housing delivery will have to take place at a rate closer to the full annual average in order to deliver the housing requirement for the full plan period. Since that annual average has actually been exceeded in the first four years of the plan period, it is not an implausible scenario for it to be met in its final six years. For the above reasons I agree with the Council's view of its residual housing requirement for the current five-year period; 3,993.<sup>6</sup>
53. In terms of the deliverability of the identified sites within the current five-year period, the two main parties are not far apart; 4,422 v 4,119. Both figures are higher than the residual requirement of 3,993 and so I do not need to claim a spurious degree of augury by alighting on either one as a prediction of an unknowable future. I can simply conclude that a supply of specific deliverable

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<sup>5</sup> Paragraph 35

<sup>6</sup> The appellant's closing submissions assert that this is not accepted by the Inspector in the Wootton appeal (APP/K0235/W/19/3243154) but she does not appear to express a view on the appropriate housing requirement. She did not need to; her paragraphs 41 and 42 discuss the supply, noting that even accepting the appellant's evidence a five-year supply is demonstrated. That is the same conclusion I reach in my next paragraph. Her subsequent paragraphs 43 and 49 draw on the effects of the Covid-19 epidemic to conclude that its effects would reduce the supply to less than that of a five-year pipeline and only temporarily at that so she gives less weight to her resultant application of the tilted balance in consequence. In this current appeal the effects of the epidemic are better understood and built in to the appellant's evidence.

sites sufficient to provide a minimum of five years' worth of housing against the residual housing requirement has been demonstrated. It follows that the "tilted balance" is not brought into play through consideration of the Council's housing land supply position.

54. The appellant also sought to invoke the "tilted balance" on the ground that the policies which are most important for determining the application are out of date because the Local Plan contains policy 1 setting out a timescale for an immediate review of the plan and providing that the plan should be deemed out of date in three years' time if the timescale is not adhered to. But, reading paragraphs 15-19 and 112-124 of the Inspectors' report into the examination of the plan, it is clear that policy 1 was found to be needed because of uncertainty about matters which were expected to become more certain in the five years following the date of the Inspectors' report (the progress of the "CaMKOx Arc" and the success or otherwise of the preparation and adoption of Neighbourhood Plans in the years following the adoption of the Local Plan). There is no inference that because the plan might become out of date in three years' time, it is out of date now.
55. For all the above reasons, I conclude that the benefit of the housing which would be delivered by this appeal proposal should be given no more than a normal significance; a "tilted balance" does not apply.
56. There is also the benefit of affordable housing. In cross examination the Council's witness sought to claim that something should not be regarded as a benefit if it is provided simply to comply with policy. Notwithstanding that, her proof of evidence agreed that the proposed affordable housing would be a significant benefit in meeting a specific need. I concur with her written statement; planning policies are not simply directed against disbenefits; they can also seek benefits. A benefit is a benefit nonetheless.
57. Through the planning obligation, the appeal proposal promises 30% affordable housing. This would comply with Local Plan policy 58S. It is not therefore a disproportionate benefit as would be the case if an excess over policy were proposed. As with housing in general, the significance of the benefit is to be judged by reference to the Borough's need and its performance in meeting that need.
58. The objectively assessed need for affordable housing over the plan period is 4,188<sup>7</sup>, equivalent to an annual average of 279. In contrast to the Borough's performance on meeting housing needs in general, there has been underperformance in the first three years of the plan period, not yet compensated by an overperformance in the most recent two years. There is currently a cumulative shortfall of 140 affordable homes according to the addendum to the Planning SOCG.
59. According to the Council, and not disputed by the appellant, the forecast affordable housing provision for the remaining years of the plan is expected to improve supply and result in a delivery of 4151; still 37 short of target. There would therefore be a slightly elevated benefit in the affordable housing which would result from the unplanned development of the appeal site, over and

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<sup>7</sup> According to paragraph 10.1 of the Local Plan. A requirement of 4,185 is stated in Philippa Jarvis's evidence paragraph 8.51

above the ordinary benefit of compliance with Local Plan policy 58S, in that it would cover the shortfall in the Council's forecast supply.

*Local infrastructure*

60. In addition to the mitigations for highway safety and sustainable travel, noted earlier, the appeal proposal would, through a s106 agreement provide a Health Care contribution, Open Space provision and various Education contributions. The Health Care contribution of £2,508 per dwelling would be used to expand healthcare facilities to address the needs of the growing population of Renhold and neighbouring areas supporting the delivery of the NHS Long Term Plan (2019-2029).
61. The sum was calculated by the NHS Bedfordshire Clinical Commissioning Group based on a formula for Primary Care costs adopted across the NHS England Midlands and East (Central Midlands) area to provide consistency for all the 25 local authorities comprising that area and as part of the single operating model of best practice it has developed the actual costs of providing such facilities related to the number of persons who will be served by it and on formulae for acute care infrastructure, community health services and mental health services. As such I am satisfied that it would be directly related to the development and fairly related to it in scale and kind and so would comply with CIL regulation 122. It would be a mitigation, not a benefit of the development.
62. Open space provision, secured by the planning obligation, would include not less than 1.1 hectares of sports pitches, not less than 3.25 hectares of informal and amenity greenspace, parks and gardens and equipped play areas, structural, formal and informal hard and soft landscaping generally in accordance with the Parameters Plan. They would be a benefit of the scheme. The parties agree that the overall level of open space to be provided would be in excess of that required by policy AD28 of the Local Plan.
63. I have considered whether the overprovision would mean that CIL regulation 122 would be contravened. I conclude that it would not contravene CIL regulation 122 because, as noted in previous paragraphs, the stream dividing the site represents a natural boundary to development so that the western part of the site can remain open to help protect the setting of the Mowsbury hillfort scheduled monument and because the western part of the site is subject to Local Plan policy AD24 requiring the delivery of green infrastructure. I am also persuaded by the Council's arguments for various green buffers along the boundaries of the site. The open space requirements would therefore be necessary to make the development acceptable in planning terms and so comply with CIL regulation 122 and the tests of NPPF paragraph 56.
64. I cannot say the same about all of the education requirements. The development itself would give rise to a need for a contribution to secondary education provision and for about two-thirds of a one-form entry (1FFE) primary school. The Council correctly points out that primary schools cannot be built in units of less than one-form of entry but, normally in such circumstances, funding to complete the unit would be provided either by other developments contributing to the need, or from the Council's own capital resources.
65. What is proposed is a proportionate contribution to secondary education provision and that the development should provide, not just a proportionate

contribution to the cost of a site for a 1FE primary school, but the whole of a site large enough for a 2FE primary school and not just a proportionate contribution to the cost of constructing a school but the whole cost of its construction. There is no site allocation or policy requirement for a school to be provided on this site and so, although it may well be of benefit to the Council, I find that the element of provision which is over and above the demand arising from the development would not be necessary to make the development acceptable in planning terms and would not be fairly and reasonably related in scale or kind to the development. It would therefore contravene the CIL regulations. I take the provision into account only insofar as part of the provision would be a proportionate mitigation of the effects of the proposal but I take no account of the excess which would provide additional benefit.

*The planning balance*

66. The NPPF advises that decisions should apply a presumption in favour of sustainable development. This means approving without delay proposals that accord with an up-to-date development plan. As noted previously in this decision letter, this proposal would comply, or with conditions could be made to comply, with some policies of the development plan, such as AD24, requiring the delivery of green infrastructure, AD28, requiring the provision of open space, 2S (iii), 7S (x), 29 (v), 31, 33, 53 (i), 86S, 87, 88 and 89 (which require the provision of sustainable travel modes and safe transport infrastructure), 28S, (placemaking), 37 (landscape character), 41S (Historic environment and heritage assets), 46S (Best and most versatile land) and 58S (Affordable housing) but not with others such as 3S and 7S which set out the spatial strategy. It is not a requirement to comply with all policies; a development plan must be read as a whole but, notwithstanding the compliance with an extensive number of development plan policies, a proposal which fails to comply with the overall strategy of the plan cannot be said to comply with the development plan when read as a whole.
67. It is not therefore possible to follow the advice of NPPF paragraph 11. I therefore fall back on the advice of NPPF paragraph 12; decisions may depart from an up-to-date development plan if material considerations in a particular case indicate that the plan should not be followed.
68. In this case, the proposal would not comply with the spatial strategy of the plan but the actual harm which would result would be minimal in practical terms; the conceptual harm of weakening faith in the plan-led system would be more substantial. A fairly ordinary piece of rural land would be transformed into largely urban land. That does not meet the government's preference for the use of previously-developed (brownfield) land. Moreover, the agricultural quality is BMV so both considerations count against the proposal. However, there would be little harm to wider considerations of character and appearance.
69. The delivery of a noticeable percentage of the Council's average five-year supply would be a benefit but, not out of the ordinary, since the Council can demonstrate a five-year supply. The delivery of affordable housing which would make good the Council's projected shortfall is a more influential consideration but the numbers involved are small. Other provisions in the proposal are mitigations of what would be harmful effects and so I have not counted them as positive indications favouring approval. The delivery of open

space in excess of the Council's requirements and contributing to the delivery of the Council's Green Infrastructure Opportunity Zones is a notable benefit, unlikely to be achieved other than by granting permission for development such as this and therefore perhaps the most compelling argument for deviating from the Plan's development strategy.

70. But, there is no compelling reason to deliver that aspiration now and therefore I conclude that, overall, there are insufficient material considerations to indicate that the plan's spatial strategy should not be followed at the present time. I leave it to the Council to consider how its proposals for the Green Infrastructure Opportunity Zones may best be delivered in the review of its plan which it is currently undertaking. The appeal is, therefore, dismissed.

*P. W. Clark*

Inspector

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Bird QC

He called

Jonathan Billingsley                      Consultant, The Landscape Partnership

BA(Hons) BPhil CMLI

Philippa Jarvis BSc                      Principal, PJPC Ltd

(Hons) DipTP MRTPI

Kim Healey participated in the discussions of the proposed planning obligation and of proposed conditions

### FOR THE APPELLANT:

Paul Tucker QC, assisted by

Philip Robson

He called

Ben Wright BA(Hons)                      Director, Aspect Landscape Planning Ltd

DipLA CMLI

Geoff Armstrong                      Director, Armstrong Rigg Planning

BA(Hons) MRTPI

Paul Hunt explained the content of the proposed planning obligation  
Martin Andrews and Alex Munro participated in the discussions of the proposed planning obligation and of proposed conditions

### INTERESTED PERSONS:

Councillor Stephen Moon                      Great Barford ward councillor on behalf of  
Renhold Parish Council

John Dean                      Local resident

Alan Watson                      Local resident

## **Additional DOCUMENTS submitted during the Inquiry**

- 1        Cotswold Archaeology Archaeological evaluation –interim summary
- 2        Updated 5YHLS position
- 3        Appellant’s request for information about Eastcotts site
- 4        Council’s information about Eastcotts site
- 5        Planning Statement of Common Ground Addendum
- 6        Revised Statement of Common Ground on Housing Land Supply
- 7        Updated List of agreed planning conditions
- 8        Suggested site visit route plan
- 9        Addendum to G Armstrong Proof of Evidence
- 10      Canterbury City Council v SSCLG (CA) [2019] EWCA Civ 669
- 11      Crane v SSCLG [2015] EWHC 425 (Admin)
- 12      Draft planning obligation with site boundary plan and parameters plan
- 13      Updated list of agreed planning conditions
- 14      Gladman v Wokingham [2014] EWHC 2320 (Admin)
- 15      Planning obligation signed and dated 30 November 2020