

Summaries of recent decisions

Gladman Developments Ltd – Outline application 140 residential dwellings (including up to 40% affordable housing) removal of existing temporary agricultural equipment and debris, introduction of structural planting and landscaping, informal public open space and children’s play area, community orchard and allotments, surface water flood mitigation and attenuation, vehicular access point from Highfields Road and associated ancillary works, with all matters reserved except for the main site access – Land East of Highfields Road, Caldecote – Appeal allowed.

1. The Committee refused the application on the basis of the unsustainable location of the site for the proposed development. The appeal was considered by way of an inquiry attended by Cllr Hawkins as local member.
2. While the inquiry took place before the *Hopkins Homes* Supreme Court judgement, the inspector received comments from the main parties following the judgement before issuing his decision.
3. The inspector identified the Council’s objection to the appeal scheme being its location in a village that in its view scores poorly in terms of public transport links, health provision, local facilities and employment. Local people had referred to the recent increase in population which they feel has not been sufficiently accompanied by new facilities apart from the new village hall which is small. On this aspect he concluded that although most future residents will need to use a car for main shopping trips and commuting, the bus services together with the opportunity to use an upgraded cycleway to the main road and shop offer a practical choice which in this case limits the degree of conflict with the aims of development plan policies TR/1 and DP/1b.
4. The frequency of bus services to Cambridge and Cambourne was considered sufficient to provide a realistic choice for commuters. Although bus services are significantly better than many other rural locations, the development nonetheless conflicts with the sequential development sustainability criteria set out in plan policies ST/6, DP/7, DP/1a and 1b. Access to education and medical services could be secured by way of contributions through a section 106 agreement. Other necessary infrastructure could be also be secured.
5. There was recognition that local occupiers have experienced serious surface water flooding in Highfields Road in the past. At the site visit, it was apparent that this was at least partly caused by constricted and unmaintained ditches and culverts running along the frontage of properties. The appeal scheme would incorporate a separate drainage ditch draining in an easterly direction towards a balancing pond from where the outflow into the local drainage system would be controlled. In this way, there would be no additional surcharge from development of the appeal site on existing drains in Highfield Road. This matter could be assured by means of an appropriate condition.
6. Foul drainage is currently pumped away from the village to the Bourn treatment plant. Incidents of flooding and breakdown have occurred at the pumping station, leading to smells and noise, but Anglia Water has indicated that the pumping station has the capacity to pump the additional outflow from the proposed development. On the face of the evidence, there was no reason to consider that foul drainage is a reason to

dismiss the appeal. A condition could be imposed to ensure that the Council approves the design of the drainage.

7. In conclusion, the proposal was found to conflict with policies ST/6, DP/7 and DP1(a), but the weight to be attached to the conflict with these policies is reduced because of the ongoing housing shortfall. The second limb of paragraph 14 of the NPPF applies. Taking all matters into account, the adverse impacts of the proposed development fall short of outweighing the benefits, assessed against the policies of the NPPF taken as a whole. The proposal would represent sustainable development which should be granted planning permission.

Comment: This decision is further evidence that the legal advice given to the Council regarding the status of policies ST/6, DP/1(a) and DP/7 as no longer being out of date is correct. This allows the decision-maker to give weight in principle to the objectives of these policies, albeit this weight is still regarded as "limited" and must still be considered in the light of paragraph 49 of the NPPF and the Council's inability to demonstrate an up to date supply of housing land.

Swavesey Ventures Ltd – Development of up to 70 dwellings, public open space, children's play area, associated landscaping and new access – Land including at rear of 130 Middlewatch, Swavesey – Appeal allowed and costs awarded against the Council

8. This appeal followed the Planning Committee's refusal of outline planning permission on the grounds of the cumulative impact arising from this and other development in the village having due regard to traffic generation, the capacity of primary and secondary schools, and mitigation for foul water drainage. The appeal was considered by way of written representations.
9. In considering the sustainability of the village to accommodate this level of development, the inspector noted the intention to re-designate the village as a Minor Rural Centre. He agreed with the officer report to Committee which stated that in the context of a lack of a five year housing land supply, development in this type of location generally and Swavesey specifically, can, in principle, accommodate more than the indicative maximum of 30 units. This would still achieve the definition of sustainable development due to the level of services and facilities provided in these villages.
10. There had been no in-principle objections from relevant consultees concerning education, highways, sewerage or other services and facilities, whether considered on its own or cumulatively with others. In the absence of cogent evidence to the contrary he concluded that the conflict with existing plan policies – notably DP/7 and countryside impact - would be quite limited.
11. The proposed planning obligations towards affordable housing, education (as originally drafted and agreed by the County Council), open space, sports facilities, primary health care, libraries and lifelong learning, transport and household waste receptacles were all being provided and deemed necessary to make the development acceptable in planning terms. Provision was also made for the maintenance of sustainable urban drainage.
12. The development was therefore held to amount to sustainable development having regard to the three dimensions as set out in the NPPF. This includes an "imperative to significantly boost the supply of housing and the economic advantages of that are

well established and understood. Moreover, the social benefits of increasing housing supply are significant, including in this case the affordable housing that would be delivered across the development. Subject to the imposition of the conditions suggested by the Council, there would be no unacceptable environmental consequences". The appeal was therefore allowed.

13. The appellant's claim for costs was made on the basis that the Committee had disregarded the advice of its officers who were themselves guided by the advice of the relevant consultees with responsibility in those areas of concern. Instead of following evidence-based professional advice, it had substituted its perception of the impacts of the proposal without credible evidence to substantiate its alternative view. This had resulted in unreasonable refusal, thereby delaying the development and causing the applicant unnecessary and wasted expense in the appeal process.
14. For his part, the inspector agreed that the Council had been unable to justify its position in this respect. The application had unreasonably been refused and as a consequence the applicant had incurred unnecessary and wasted expense in the appeal process. This had also encompassed the appellant's cost of preparing as a contingency a Deed of Variation to the planning obligation primarily in respect of the Secondary Education Contribution. This had arisen as a result of the County Council changing its mind and asking for an increased sum late in the day. The request had been accepted and taken on board by the District Council but was found to be unjustified.