



# Appeal Decision

Site visit made on 22 November 2022

**by Zoe Raygen DipURP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 December 2022**

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**Appeal Ref: APP/V0510/W/21/3283920**

**Land to the south of Wilburton Road , Haddenham , Ely CB6 3UU**

- 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 Land Allocation Ltd against the decision of East Cambridgeshire District Council.
  - The application Ref 20/00996/OUM, dated 31 July 2020, was refused by notice dated 7 May 2021.
  - The development proposed is for residential development for up to 70 dwellings and the demolition of 18 Wilburton Road (all matters reserved except for access) .
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application the subject of this appeal was made in outline form with all matters reserved for future consideration apart from access. A layout plan is submitted for indicative purposes only. I will treat the appeal on the same basis.
3. During the course of the appeal the Haddenham and Aldreth Neighbourhood Plan 2019-2031 (NP) was made in October 2022 and became part of the development plan. Comments from parties were invited and taken into account in the determination of this appeal.
4. The appellant has submitted a Unilateral Undertaking (UU), which secures 50% of the development as affordable housing, provision of Public Open Space and a Sustainable Drainage System along with arrangements for maintenance of both, and contributions towards education with respect to early school years, primary and secondary provision and libraries. The UU is a material consideration.

## Main Issues

5. The main issues are:
  - the effect of the proposal on the character and appearance of the area; and
  - whether the site is a suitable location for the proposed residential development, having regard to planning policy.

## Reasons

### *Character and appearance*

6. The appeal site is located on the edge of Haddenham which is a village sited in an elevated position within the Fens. It is surrounded by open agricultural landscape. Due to its elevated position, it is highly visible within the landscape and has views out to the lower lying Fen land from the village. Fields are generally enclosed with hedgerows and there are a number of trees within the wider landscape. This is largely consistent with the description of the character described in the Natural England National Character Area 46 (The Fens) (the NCA), East of England Regional Landscape Character Typology 2011 (Lowland Village Farmlands and Planned Peat Fen) and the Cambridge Landscape Guidelines 1991 (Fenland). The latter notes that there are many 'islands' which rise above the flat ocean of the fens. These range in size from the dominant Isle of Ely which rises over 20m above the adjacent peat fens, to much smaller features which are elevated an almost imperceptible metre or two. These islands are significant in the landscape: most are occupied by settlements or farmsteads which, with their associated tree cover, gives them special prominence. Haddenham meets this description.
7. To the west of the appeal site is a house sited in large grounds and beyond that residential development within Pear Tree Close and Orchard Way. Although some of those houses bound the site, they do so behind trees and hedgerows. Even at the time of my site visit when leaf fall was underway, they were not particularly prominent, but well integrated within the landscape. To the south is open agricultural land.
8. Immediately adjacent to the east is a house extending along the boundary a significant way. With the low hedge to Wilburton Road, views are available over a considerable distance to the surrounding open Fenland. The approach to the appeal site from all surrounding roads is predominantly rural in nature, with houses set back from the road behind planting, hedges and trees. The prominence of built development reduces along Wilburton Road, New Road and Haddenham Road such that the appeal site, rather than being an undeveloped gap, is very much part of a transition zone between the built development of Haddenham and the open countryside marked by increasingly sporadic development. I acknowledge that on the north of Wilburton Road, just a short distance from the appeal site, is a large water tower and tall radio mast which are prominent in the local landscape. Nevertheless, they are not sufficient, in my view to degrade the rural character of the area to a significant degree.
9. The appeal site, although including No 18 Wilburton Road which is to be demolished to form the access, is mainly formed from open agricultural land extending down the ridge. It is bounded by trees and hedgerows. It has limited landscape features, but that is not unusual or uncharacteristic within the wider landscape. Consequently, the appeal site contributes positively to the pastoral character and appearance being part of the rural setting of the village.
10. I have had regard to the appellant's Landscape and Visual Impact Assessment (LVIA) as well as later landscape statements. I accept that the appeal site is not part of a valued landscape for the purposes of paragraph 174a of the National Planning Policy Framework (the Framework). However, it does play an important role in the rural setting of the village and is not untypical of the national and local landscape character areas. It therefore has a medium

landscape value. I also find that it has a medium to high susceptibility given its contribution to the character of the area and the mainly undeveloped nature of the site. The sensitivity derived from the value and susceptibility is thus medium to high.

11. The proposed development of 70 houses would have a typical suburban estate layout. The houses would be accessed by a single road which would extend a considerable distance down the side of the ridge into the open countryside some way beyond the extent of built development in the immediate vicinity. It would also represent a large mass of development, rather than the more characteristic linear extensions of down the hillside mostly associated with transport routes, thereby creating an incongruous swathe of development in this location.
12. Existing hedgerows would mainly be retained and the indicative layout shows that areas of planting would be accommodated including an orchard at the entrance to the development, reinstating a historic feature of the area. Roads would follow the contours with wide verges to the upper side of road to provide room for large trees and there would be single storey and one and half and two storey dwellings. However, such planting would take some time to establish. Furthermore, in my view even including dwellings of relatively low height would not satisfactorily integrate the proposal given its significant mass and extent down the hillside. Moreover, the existing built development does not present a particularly harsh edge or represent a dominating urban influence which could accommodate further housing in this location. Indeed, although set back from the road, the proposal would harmfully extend and consolidate the built form to the east, even though within the 30mph speed limit and the entrance sign to the village. This would be contrary to the pattern of sporadic development on the ridgeline in this location to the detriment of the character and appearance of the area and the setting of Haddenham. There would though still be a significant area of open undeveloped countryside between Haddenham and Wilburton to avoid material harm caused by coalescence between the villages at the current time and therefore no conflict with Policy HAD9 of the NP.
13. The location of the proposed housing on a fen island, historically a focus for development would not be uncharacteristic in that respect. However, while I appreciate that the NCA covers a large area including other counties, it notes that modern built development is eroding the architectural and historic character of some Fenland villages. Development on settlement margins can be particularly damaging, creating visual intrusion and resulting in the loss of surrounding landscape features and increasing the risk of coalescence. Whilst not determinative, given my findings above it reinforces my view that the proposal would cause major adverse harm at construction which would not be significantly reduced over time to the appeal site itself and the immediate local area.
14. Policy HAD8 of the NP includes a number of important views identified in the Haddenham Design Codes 2020 document and separately after that process. I note the comments of the appellant regarding the addition of viewpoints outside of those within the Design Codes document and that the Independent Examiner (IE) of the NP had some sympathy with the perceived lack of justification for the additional viewpoints. However, the IE came to their own view and the additional viewpoints were identified prior to the NP being made. The IE must have considered that, with the additional viewpoints, the NP met

the basic conditions and moved to referendum. They are now within the made NP and part of the development plan. These consist of views both into and out of the village. One of these is located on Wilburton Road looking out across the appeal site to the Fens.

15. At the time of my site visit the hedgerow that bounds the site in this location was much lower than contained in the appellants visualisations<sup>1</sup> and I note the appellant's comments about the height of the hedge changing during the year due to the maintenance regime. However, even using the appellant's visualisations, together with my observations on site, it is clear that the view here would change considerably. Whilst the use of single storey dwellings, would allow a view above roof level towards the lower ground, this would be limited and certainly not characteristic of the wide open vista that currently exists allowing visibility down the ridge and to the wider area. Over time the planting of the trees in this location, together with the housing, would, according to the visualisations, all but block the views, even given the use of smaller orchard trees. Furthermore, the proposed removal of the hedge, a characteristic rural feature, would be materially harmful.
16. I accept that currently there is no footway here and the view is mainly available to the motorist, who would have a lower sensitivity than pedestrians. Nevertheless, the view is considered important in the NP and a new footway here to link into the wider pedestrian network is included within the proposals. There would therefore be major adverse harm at this viewpoint which would not be materially reduced over time.
17. Public Right Of Way H30 known as Fen Side Track runs east west to the south of the appeal site with access from Lode Way a narrow country lane extending south from Haddenham. For much of the length of Fen Side Track views of the site are not possible due to extensive vegetation. Furthermore, planting and development obscure views from Lode Way. However, I saw that there are some places where clear views are available and representative of the appellant's viewpoint 2 and associated visualisations. Here the proposed houses would be very visible, particularly the uncharacteristic depth and mass of development down the ridge. The consequent encroachment into the countryside would be visible to pedestrians and motorists causing major adverse impact only reducing to moderate in the long term due to some softening by planting proposals. Nevertheless, the extent of the development would still be apparent.
18. From my observations on site, I am largely in agreement with the findings of the appellant's LVIA that the development would result in negligible adverse impacts over the much longer distant views of the appeal site. I note the Council's comments regarding the views of residents of nearby houses and their ability to retain long distance views. The residents of some houses would lose views over the open countryside which would be replaced by housing development. I therefore consider that that there would be a moderate adverse impact even after 15 years. There is no suggestion though, that appropriate living conditions could be achieved for existing residents through careful consideration of any reserved matters submission. Based on my observations on site, and the evidence before me, I am satisfied that although residents would lose their view over the fields this would not be so severe as to equate to

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<sup>1</sup> Appendix A Landscape Appeal Statement and Appendix

material harm to their living conditions. Therefore, as this is a private view, I give only minor weight to this impact.

19. For the reasons above the proposal would have a major adverse effect on the character and appearance of the area. It would therefore be in conflict with Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015 (the Local Plan), Policy HAD8 of the NP and East Cambridgeshire Design Guide Supplementary Planning Document 2012. Together these require that development be of high quality, enhancing and complementing local distinctiveness and public amenity by relating well to existing features and that development proposals should demonstrate that their location, scale, form, design, materials, colour, edge treatment and structural landscaping will create positive, complementary relationships with existing development and will protect, conserve, and where possible enhance the pattern of distinctive historic and traditional landscape features and key views into and out of settlements.

#### *Location*

20. Policy GROWTH 1 of the Local Plan sets out the level of growth in the district over the plan period. Policy GROWTH 2 of the Local Plan sets out the locational strategy for new development in the district aiming to ensure that growth takes place where it is needed, where it is deliverable and where it is "sustainable". This means that the policy directs the majority of development to the three market towns in the district which are seen as the most sustainable locations. However, some limited development is also directed to villages such as Haddenham where the appeal site is located to help support local services and community activities.
21. The strategy also involves ensuring that as much development as possible takes place within the built up areas of settlements rather than the open countryside. Hence, Development Envelopes have been drawn around the main built up areas of settlements in order to prevent sprawl into the open countryside and protect the character and setting of settlements.
22. Outside of the Development Envelopes, land is considered to be open countryside where policy GROWTH 2 strictly controls new growth setting out limited types of proposals which may be acceptable. Market housing, as proposed here, is not included within those types of development and hence the proposal would be contrary to that Policy. The Development Envelope is replicated in the NP and Policy HAD1 states that land outside the Development Envelope is defined as countryside where development will normally only be allowed for agriculture, horticulture, forestry, outdoor recreation and other uses which can demonstrate a need to be located in the countryside. Hence the proposal is also in conflict with that policy.
23. Parties agree that Policy GROWTH 1 is out of date since the plan is now more than five years old and the identified housing requirement can no longer be relied upon. The Council is therefore undertaking a Single Issue Review (SIR) of the Local Plan on that basis. I am mindful that the SIR has found that, based on the revised housing requirement, there is no need to identify additional sites for housing across East Cambridgeshire. However, this is currently at examination and the outcome may change. Nevertheless, Policy GROWTH 2 is not part of that review and therefore whatever comes from the SIR, the way development is distributed via policy GROWTH 2 would not change. In my view

the locational strategy for development as contained in Policies GROWTH 2 and HAD1 is broadly consistent with the requirements of the Framework in terms of directing development to accessible locations and recognising the intrinsic character and beauty of the countryside.

24. The appellant draws my attention to the Soham appeal decision which was made following detailed examination of evidence at a Public Inquiry<sup>2</sup>. The Inspector there considered that "Whilst the general objectives of the policy (GROWTH 2) to manage patterns of growth and protect the setting of towns and villages are good ones that are consistent with the Framework, the policy can no longer be considered up to date because it can no longer be said that sufficient housing can and will be accommodated within the defined settlement envelopes. This is particularly so when the plan itself anticipated that development outside of the envelopes would at some point be needed within the plan period at the broad locations identified. They go on "the Local Plan has not been effective in meeting housing needs since the beginning of the plan period and casts further doubt as to whether the Council's locational strategy can be relied upon to significantly boost housing delivery in line with the Framework".
25. The Council consider that the appeal before me now is distinguishable from the Soham decision as it relates to a village rather than a market town, particularly given that no locations are identified outside of the development boundary for possible development as there is at Soham within the supporting text for policy GROWTH 4. I have some sympathy for this view. I appreciate that generally if a policy is out of date, then it should be consistently considered so. However, I am also mindful that the NP, incorporating the Development Envelope has very recently been independently examined and found to comply with both the development plan and national policy and indeed was done so after the date of the Soham appeal decision. Furthermore, I am aware that in the NP, the housing requirement from 2019-2031 is 161 dwellings which is equal to the number of dwellings with planning permission that had not been completed as at 1 April 2019. Therefore, there was no need to make further allocations in the NP. Subsequently, planning permission has been granted for an increased number of houses at one of the sites. It appears therefore that Policy GROWTH 2 has worked well in Haddenham and policy HAD2 of the NP allows for further development on windfall and infill plots within the Development Envelope. Moreover, if the conclusion of the emerging policy review changes and more allocations need to be made at that time, then that would be the time to review Development Envelopes including those of villages. Therefore, in the circumstances of this appeal in relation to a village I find that policies GROWTH 2 and HAD1 are not out of date.
26. Even if I were to find Policy GROWTH 2 to be out of date that policy is predicated on directing development to accessible locations and protecting the countryside.
27. There is no dispute that the appeal site is in a reasonably accessible location, From the evidence before me and my observations on site I would agree. It is within a convenient walking distance of a pre-school and primary school together with a pharmacy, convenience store, public house, church and post office. The proposals include the provision of a new footway and crossing points

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<sup>2</sup> APP/V0510/W/21/3282449 (the Soham decision)

to provide a safe link into the existing pedestrian network. There are a number of bus stops within the vicinity of the appeal site with services to Ely (hourly) and Cambridge (one service per day in each direction). Taken together, I am satisfied that there would be a genuine choice of transport modes for residents. I am not persuaded therefore that the appeal site is so obviously inaccessible as to be in fundamental conflict with paragraph 105 of the Framework.

28. However, I have already found that the proposal would have a major adverse impact on the character and appearance of the area contrary to local plan policy and paragraph 174b of the Framework which seeks to recognise the intrinsic character and beauty of the countryside.
29. Therefore, for the reasons above the proposal is in conflict with Policy GROWTH 2 of the Local Plan and Policy HAD1 of the NP as well as the Framework.

### **Planning Balance and Conclusion**

30. The appellant considers that Policy GROWTH 4 is one of the most important policies for the determination of this appeal. However, I do not agree. That policy sets out allocations over the plan period and it was important in the Soham appeal decision where the appeal site fell within an area of potential housing supply identified in the supporting text to that policy and there was only one reason for refusal in the Soham appeal namely the conflict with the locational strategy. It follows therefore that it would be amongst the most important in its determination. The determination of this appeal on an unallocated site at a village with no indicative areas for housing outside the Development Envelope, and subject to another reason for refusal is different.
31. As this appeal relates to development within the open countryside and the consideration of how this proposal would integrate into existing development, then I also consider Policies ENV1 and ENV2 to be within the basket of the most important policies given their requirement to protect landscape character and local distinctiveness. There is no dispute between the parties that these policies are up to date.
32. The Council also considers that Policy HOU3 regarding the provision of Affordable Housing is one of the most important policies. However, while it is important that affordable housing is provided on the site, I do not consider it to be one of the most important issues in this respect.
33. Policy GROWTH 1 sets out the level of growth in numbers, and therefore is one of the most important for the determination of this appeal which relates to housing growth. Therefore, the policies GROWTH 1, GROWTH 2, ENV1 and ENV2 are the most important for determining this appeal, only one of which I have found to be out of date for the purposes of this appeal. On balance, given the issues involved, I find that the basket of policies most important for the determination of this appeal are not out of date.
34. There is no dispute between the parties that the Council is able to demonstrate a five year housing land supply. Therefore, in either case the provisions of Paragraph 11dii are not engaged. As I have reached this conclusion, there is no need for me to consider whether, due to the recently made NP, paragraph 14 of the Framework applies.
35. While the Council is able to demonstrate a five year housing land supply, the level of that supply is not agreed. The appellant considers it to be nearer the

five year figure than the Council's assertion of in excess of seven years. I have also had regard to the appellant's evidence regarding an historic failure to deliver market housing together with the Housing Delivery Test result for East Cambridgeshire being 95% indicating the Council is not meeting its Housing Requirement. Irrespective, the presence of a five year housing land supply, whatever the figure, is not a ceiling on the delivery of housing in accessible locations such as that proposed here and I give the provision of housing significant weight.

36. The appellant has submitted a Housing Needs Assessment (HNA), which has been considered by the Council and the findings not disputed. The HNA finds that delivery of new affordable housing in East Cambridgeshire has been significantly below the Local Plan target of 30% of all new homes. Delivery from all sources has equated to an average of 56 homes per annum over the last 5 years which is less than half of the OAN identified need of 130 houses per annum and represents only 17.5% of new completions in East Cambridgeshire. This has been against the background of worsening affordability across the district. There is therefore a clear need for more affordable housing.
37. The submission from Haddenham Parish Council demonstrates a healthy delivery of affordable housing within Haddenham meeting a local need. However, the appellant has identified not only a local need in excess of that which would be delivered through extant planning permissions, but also a significant district wide need which this proposal would contribute to meeting. When the planning application was considered by the Council it included a policy compliant level of affordable housing. Within the appeal proposal this has increased to 50% secured within the UU. At either level I give this benefit substantial weight in my decision based on the current under delivery across the district.
38. Policy HOU1 of the Local Plan states that developments of 50 or more dwellings will be expected to provide a proportion of dwellings that are suitable or easily adaptable for occupation by the elderly or people with disabilities (Lifetime Homes standards or equivalent). The appellant does not dispute this requirement and has agreed that these could be delivered through the imposition of a condition. I see no reason to disagree. However, I note the appellants assertion that this would be a substantial benefit of the scheme give the lack of larger housing schemes coming forward in Haddenham. However as this is a policy requirement it would be neutral in any balancing exercise.
39. The proposal would provide about 1.67 hectares of recreational open space including a community orchard and a LEAP available for existing residents. However, given the location of the appeal site on the edge of the village this may not attract significant numbers of existing residents. Furthermore, I am mindful that such matters are reserved for future consideration and I give this benefit minor weight.
40. The indicative layout sets aside approximately 32% of the appeal site for purposes beneficial to biodiversity through the creation of new habitats in the form of tree planting and water features creating, according to the appellant, a 19.9% increase in habitat units and a 10.9% increase in hedgerow units. While I do not doubt that there will be biodiversity benefits, given that the layout is indicative only I give moderate weight to this benefit.



41. The proposal would generate economic benefits in the form of jobs created both during and after construction and the contribution of new residents to the local economy.
42. Increased Council Tax receipts are mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services etc, that is not a consideration to which I attach positive weight.
43. In addition, reference is made to income for the Council from the New Homes Bonus as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. However, the Planning Practise Guidance makes it clear that it would not be appropriate to make a decision based on the potential for the proposal to raise money for a local authority<sup>3</sup>. Accordingly, while the Bonus is a material consideration it is not one to which I attach positive weight. The economic benefits therefore together attract moderate weight.
44. The footpath improvements would help mitigate the effects of the development and would be able to be used by other local residents and thus would be a limited benefit. Landscaping would also represent mitigation and not a benefit.
45. I understand the proposal before me is in outline form and the layout is for illustrative purposes only, but I need to be satisfied that the houses can be accommodated without harming the character and appearance of the area and I have seen no other way of achieving the number which would not be materially harmful. The conflict with the locational strategy of the development plan and the harm caused to the character and appearance of the area brings it into fundamental conflict with the development plan as a whole. Therefore, in the overall planning balance, although considerable, the material considerations referred to above are not sufficient in this case to outweigh the harm I have identified and the conflict with the development plan.
46. For the reasons above the appeal is dismissed.

*Zoe Raygen*

INSPECTOR

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<sup>3</sup> ID 21b-011-20140612