



Appeal Decision

Inquiry held on 27, 28, 29, 30 September and 6 October 2016

Site visit made on 30 September 2016

by L Gibbons BA (Hons) MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/H2835/W/16/3144277

**Land adjacent to 199 Northampton Road, Wellingborough,
Northamptonshire**

- 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 Hampton Brook Ltd against the decision of Borough Council of Wellingborough.
 - The application Ref WP/15/00127/OUT, dated 2 March 2015, was refused by notice dated 7 October 2015.
 - The development proposed is an outline planning application with all matters reserved except access, for the development of land for residential purposes, to provide up to 102 residential dwellings, with associated vehicular access onto Northampton Road, open space, creation of footpath and biodiversity mitigation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application seeks outline planning permission with access to be determined at this stage. Landscaping, appearance, scale and layout are reserved matters to be considered in the future.
 3. As part of the appeal process the appellant submitted amended drawings. Although these plans show an indicative master plan with a reduced number of houses and an amended landscape strategy and green infrastructure proposals, the appellant has indicated that these are for illustrative purposes. I shall determine the appeal on this basis.
 4. The proposal is accompanied by a copy of a signed Unilateral Undertaking (UU) under section 106 (s106) of the Town and Country Planning Act 1990 (as amended) dated 6 October 2016 in relation to contributions towards a bus shelter, primary and secondary education, Wilbye Grange Orchard and mitigation for the effect of development on the Upper Nene Valley Special Protection Area (SPA). It also contains provisions for an affordable housing scheme, landscape and ecological management and formal and informal open space. I return to this matter below.
 5. Since the appeal was submitted, the Council adopted the North Northamptonshire Joint Core Strategy (JCS) in July 2016. This replaces the Core Spatial Strategy 2008 (CSS) in its entirety. The development plan for the
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area also includes the Borough Council of Wellingborough Local Plan (LP) 1999/2004. I have dealt with the appeal on this basis.

6. The Council are currently preparing the Plan for the Borough of Wellingborough forming 'Part 2' of the JCS. The parties referred to emerging policies including in relation to Local Green Space. However, given the stage that Part 2 has reached and that it has yet to be submitted for examination, I give it very little weight.

Main Issues

7. Draft issues were circulated before the Inquiry. Based on all I have seen and heard the main issues are:
 - i) The effect of the proposed development on the landscape including visual impact and on green infrastructure;
 - ii) The effect of the proposed development on biodiversity and ecology;
 - iii) Whether there is a five year supply of housing land and the implications for development plan policy; and,
 - iv) Whether the particular contributions sought for infrastructure and the scheme for affordable housing are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development.

Reasons

Landscape, visual impact and green infrastructure

8. The appeal site is located to the south of the A5128 Northampton Road. This is a principal road into Wellingborough from the west. The site consists of valley slopes and also the valley floor to the south of the Swanspool Brook. There are three fields and hedgerows and trees. The site is not tranquil as the road noise in the area is considerable and can be heard when within all parts of the appeal site. However, when standing within the site, notwithstanding the presence of hedgerows and trees it has an open feel and the open nature of the site is also noticeable in views from the Wilby Way estate. These features result in the site having a semi-rural appearance and character.
9. The wider area surrounding the appeal site is a mix of urban and semi-rural character with the addition of the countryside surrounding the village of Wilby to the west. Close to the appeal site development along Northampton Road is generally linear with some small areas of houses including Wilbye Grange and Norman Way coming very slightly down the slope. Sainsbury's which is opposite the appeal site has an urban character.

Landscape and visual impact

10. The appeal site is subject to development plan designations. Whilst the site lies within the defined urban area it is nevertheless within an Environmentally Important Open Space (EIOS) as set out in saved Policy G19 of the LP. The accompanying text of saved Policy G19 indicates that the towns in the area derive a large part of their character from open spaces. Areas including this one within Wellingborough are identified as being the most important to the visual and physical character and structure of the settlements. Saved Policy L5

of the LP relates to Important Amenity Areas (IAAs). These comprise areas of mainly informal recreation, regardless of whether the public has access. Whilst the appeal site does not provide public access it does in turn provide a considerable contribution to the overall quality and variety of the green corridor and EIOS.

11. Wellingborough has a well-established open space network. I agree with the Council that the open space network in Wellingborough is a particularly good example which is well integrated within the settlement and provides a well-connected network of open space. It provides good connectivity between the town and countryside beyond and is significant in terms of its continuity. It is a considerable feature of the town and a key characteristic.
12. The proposal is for up to 102 homes with associated infrastructure including an internal access road. The Wilby Way estate on the other side of the valley is a more intrusive element in the landscape than other development which comes towards the valley floor. Development here also creates the perception of a narrowing of the corridor. To my mind, the proposed scheme would be seen to protrude into the valley in a similar way to the Wilby Way estate, narrowing the space even further. As the slope of the appeal site is steeper than other areas of housing this effect would be pronounced and the proposal would have a negative impact on the landscape. I consider this would be the case even with a potential small reduction in the number of houses as proposed by the appellant.
13. Furthermore, the Landscape and Visual Impact Assessment (LVIA) provided by the appellant makes very little reference to winter views and the scheme's impact in this season are not referred to. In my opinion it does not give adequate consideration to seasonal differences in the magnitude and significance of effects. In the winter months when the trees are not in full leaf the development would be highly visible from a number of locations, particularly from the higher ground close to the Wilby Way estate and from the footpath running through the site and also in glimpses from the valley floor.
14. I accept that the scheme would not break the skyline. The field closest to the A509 would remain undeveloped and this would help retain the sense of separation from Wilby village. However, the proposed houses would be visible in the street scene as the access would facilitate views across the appeal site and down the slope. This would be in passing glimpses for motorists but would be more sustained for pedestrians. There would be a noticeable change in the street scene towards an urban character on this side of the road which would be visible even with the proposals for landscaping along the main access route. The development would also be highly visible to the users of the public right of way which runs adjacent to the middle field towards Northampton Road. I consider this would be the case despite the position of the hedgerow running alongside the right of way. Whilst this footpath has some urban features these are not sufficient to justify the effect of the scheme in this location.
15. The Anglian Water pumping station can be seen adjoining the appeal site. However, the eye is drawn to the construction works rather than the buildings. In addition, these are low-level structures which are not overly prominent. The proposed Park Farm development would be seen in the backdrop from the Wilby Way estate when it is constructed. However, this would be at a distance and would not influence the character of the appeal site. I accept that

- properties have been extended and altered on Northampton Road although these types of development are small in scale and have no impact on the EIOS.
16. The width of the open space corridor varies greatly and there are roads which cross the valley floor. I note that in longer views some of the development in the area is interspersed with mature trees and planting. Older estates and roads such as Mannock Road do lie in close proximity to the valley floor with the gardens of properties backing onto the green space. However, these are generally at the part where the space is wider and the valley slopes less pronounced. As such I consider they do not justify the scheme before me.
17. For the reasons given above I conclude that the proposal would cause considerable harm to the landscape and that it would have a negative visual impact. It would be in conflict with saved Policy G19 of LP and Policy 3 of the JCS. These amongst other things indicate that planning permission will not be granted for development which will result in the loss of EIOS; that development should be located and designed in a way that is sensitive to the landscape setting and should conserve, and where possible, enhance the character and quality of landscape with appropriate design amongst other things. The proposal would also be in conflict with Policy L5 as the site is currently designated as an IAA. It would be contrary to paragraph 17 of National Planning Policy Framework (the Framework) in respect of the different roles and character of areas.
18. The appellant submits that saved LP policies G19 and L5 are out of date. I accept that the designations were developed in 1999 and that there was no evidence to accompany their identification on the Council's proposals map. The appellant argues that this policy does not conform to the Framework at paragraph 76-77 which relates to open green space. The parties agree that the EIOS designation would meet bullet 1 of paragraph 77, which refers to proximity of the community. In my opinion, it would also meet the third bullet in terms of being local in character and is not such an extensive area of land that it should be excluded. In respect of bullet 2, this refers to a site being demonstrably special and provides some examples of how this might be judged, including the richness of its wildlife. Based on the evidence before me, I consider that the designation of the LWS and its features are sufficient to meet bullet 2 criteria and that Policy G19 is consistent with the Framework. I therefore give it full weight.
19. Saved Policy L5 relates to Important Amenity Areas and is associated with sites for recreation. In terms of Part 2 of the JCS, it is the Council's intention that the appeal site would not have a recreation designation. At the Inquiry, the Council indicated it wished to withdraw the policy from the reasons for refusal. Having regard to the glossary of the Framework and the meaning of open space defined there, I agree with the appellant that there is no degree of consistency with the Framework and it is therefore out of date. I therefore give the scheme's conflict with L5 little weight. I return to this matter below.

Green Infrastructure

20. It is also agreed between the parties that the site is designated as a local green infrastructure corridor as set out within Policy 19 of the JCS. In this case I consider the green corridor is a particularly strong feature of the town and makes a significant contribution to its character. It provides a high level of connectivity to the areas away from the town centre and the countryside

beyond. It reflects the definition of a multifunctional network as identified by the Framework. The character is varied ranging from a parkland characteristic to informal recreation and the semi-rural nature of the appeal site.

21. I do not agree with the appellant that the overall integrity of the green corridor would not be compromised by the appeal scheme. I consider that the cumulative value of these spaces is an important consideration. Although the development would cover a small area in comparison to the whole of this green corridor this would significantly reduce the semi-rural characteristic of the appeal site, which I consider makes a strong contribution to the overall corridor.
22. To my mind, the proposals for landscaping, retaining the west field and opening up access to some of the appeal site and to Wilby Grange Orchard would not be sufficient to outweigh the harm. Nor would the scheme result in a considerable improvement in access into the wider network as formal routes crossing and along the corridor already exist.
23. Taking account of the significance of the role of the appeal site within the green infrastructure corridor, I consider that the scheme would not result in a net gain in green infrastructure and would compromise its integrity. It would be in conflict with Policy 19 of the JCS. It would also conflict with Policy 8 (a) (iii) of the JCS which seeks to create connected places ensuring that development improves or creates open green spaces which tie into the wider network and routes to allow for movement across the settlement. It would be contrary to the Framework where it refers to promoting vitality of urban areas and conserving and enhancing the natural environment.

Biodiversity and ecology

24. The site is known as Wilby Way Meadows and is designated as a Local Wildlife Site (LWS) for its 'neutral grassland' and supporting grassland communities. The two parties do not agree on the quality of the site's features of interest. In 2010 a survey of the grassland species indicated the site was in decline. In the intervening period, grazing has stopped which has resulted in an improvement in the type of soil necessary for the species to survive. I consider there are sufficient indications from the results of the Council's survey, that there has been an improvement in the quality of the neutral grassland in some areas.
25. In commenting on the Landscape and Environmental Management and Monitoring Plan (LEMMP) provided by the appellants, I note that the Local Wildlife Trust (LWT) do refer to the objective of restoring the retained habitat areas back to a condition/quality whereby the site would meet the site selection criteria once again. However, the LWT has also recently confirmed that based on the information provided on behalf of the Council the site continues to merit its status and meets three out of four of the designation criteria which is sufficient for this analysis.
26. I do not agree with the appellant that the site holds little value. The site is regarded as having medium value at county level in terms of the hierarchy of sites with biodiversity and ecological features. The amount of neutral grassland that remains within the whole country overall does not seem to me to be especially high. The proposal would result in the loss of around 55% of the area of the LWS. Furthermore, I agree with the Council that over 70% of the more important grassland would be lost and less than 30% brought into

- conservation management as part of the appeal scheme. This amount would not be significantly affected by a proposed small reduction in the number of houses within the scheme. The majority of the two fields would be replaced with houses and gardens and there would be a subsequent increase in human activity.
27. I have given careful consideration to the surveys produced by both parties and the arguments made in respect of populations, quadrats and identification of particular species and other matters. I conclude that the site retains sufficient 'neutral grassland' interest currently such that the loss of the features would have a considerable adverse effect on the interest of the LWS.
28. The site is in private ownership and is not currently managed or grazed by horses as in previous years. The Council acknowledges that in the much longer term that if the site is not managed in an appropriate way then the grassland and specific features would be likely to be lost with scrub becoming established on the site. The Council is concerned that similar arguments for the lack of management could be made at all the local wildlife sites within the county. Notwithstanding, I consider the current status of ownership and management of the site is not sufficient to outweigh my concerns about the effect of this proposal on the LWS.
29. I have had regard to the proposals for the remainder of the site which would not be developed and which are included within the LEMMP. I also note that the LWT does not object to the proposed scheme and that this was confirmed in an email¹ provided during the Inquiry. The LWT commented on a draft of the LEMMP and made a number of suggested changes which were incorporated into the current version. This would secure a grassland management scheme for the remaining field and a new southern meadow. Long term monitoring would be put in place and the intention is that these fields would continue to be managed in the long term.
30. From the evidence before me, I am satisfied that the remaining field could be improved in terms of the interest of the LWS. The proposals would also incorporate a buffer to the Swanspool Brook and management to the stream to enhance this for water voles and otters which would be beneficial for these species. Provision for bats and reptiles would also be made.
31. Overall, I consider that the management of the remaining grassland and the other proposals for the scheme would provide some mitigation for the scheme's impacts. However, the scale of the loss of the local wildlife site is significant having regard to the particular features of interest of the site. Balanced against the type of improvements and mitigation offered, my conclusion is that the proposal would nevertheless result in a harmful effect on the ecology and biodiversity of the site.
32. For the reasons given above, I conclude that the proposal would be in conflict with saved Policy G18 of the LP and Policy 4 of the JCS. These amongst other things indicates that planning permission will not be given for development which will adversely affect sites designated as a Site of Nature Conservation value on the proposals map, except where there is no suitable alternative site for the development and the proposal includes satisfactory mitigating measures to reduce its impact upon the special interest of the site. It would be contrary

¹ Inquiry Document 29

to paragraph 118 of the Framework where it relates to conserving and enhancing biodiversity.

Five Year Supply and policy implications

33. Paragraph 14 of the Framework explains that for decision taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan without delay and, where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or specific Framework policies indicate that development should be restricted.
34. Paragraph 47 of the Framework indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed housing needs for market and affordable housing. Paragraph 47 also sets out that local planning authorities should identify an update annually a supply of specific deliverable sites that provide five years' worth of housing, plus a buffer against the housing requirements.
35. The main parties agree on a number of matters relating to the five year housing land supply calculation. These include the basis for the requirement as set out in the JCS, past completions, backlog and that a 20% buffer should be applied. The parties consider that the start date for the calculation of the five year supply should be April 2016 and matters relating to a lapse rate and windfall allowance and the latest position on some individual sites were also agreed upon. Based on the evidence provided by both parties, I see no reason to disagree with these matters. The JCS inspector in the Report on the Examination (EiP report) concluded that as of February 2016 the Councils within the area were able to demonstrate a deliverable rolling five year housing land supply².
36. The Council's case is that it can demonstrate a five year supply of housing land and presented a better case scenario of 6.05 years and a worst case scenario of 5.68 years. I acknowledge that this assessment is not as high as the Council's assessment in May 2016³. The appellant considers that notwithstanding the adoption of the local plan and the conclusions of the JCS inspector, the Council cannot currently demonstrate a five year supply of housing land. The appellant considers that there is a 4.36 years supply of housing land.
37. The outstanding issues between the Council and the appellant relate to future completions and the expected numbers to be delivered at the two Sustainable Urban Extensions (SUEs) Wellingborough East and Wellingborough North and also the start date at one of these sites. The appellant does not dispute that the two SUEs are deliverable; it is the rate at which the housing numbers will come forward. The appellant argues that the delivery rate will not be as high as even the worst case scenario presented by the Council due to a number of factors. However, both parties agree that both sites will bring forward 50 completions in the start years.

² Report on the Examination into the North Northamptonshire Joint Core Strategy paragraph 149.

³ Five Year Supply of Deliverable Housing (Updated Position For Planning Appeals)

JCS examination

38. The Planning Practice Guidance⁴ (the Guidance) sets out that the examination of Local Plans is intended to ensure that up-to date housing requirements and the deliverability of sites to meet a five year housing land supply will have been thoroughly considered and examined prior to adoption. This is in a way that cannot be replicated in the course of determining individual applications where only the applicant/appellant's evidence is likely to be presented to contest an authority's position.
39. The appellant considers that the Council place too much emphasis on the conclusions of the JCS Inspector in the EiP report and is that it was based on defective information supplied by the Council and those promoting the SUEs. The appellant also suggests that the information was not subject to proper scrutiny at the JCS. The focus of these points relate to how the developers and those with an interest in the land have made previous statements over a period of time about the numbers of homes to be delivered and on the timing of bringing schemes forward.
40. I am mindful that the appellant may not be directly involved in these two sites. Moreover, without developers and landowners of the SUEs being present at the Inquiry it was not possible to thoroughly examine the concerns of the appellant. The JCS inspector noted that the slow delivery of the SUEs originally allocated in 2008 was largely due to the recent recession and not entirely in the control of the Council or developers. He specifically requested up to date housing trajectory information during the course of the examination and acknowledged the concerns of the reliance on development at the SUEs⁵. Therefore, I am not persuaded that the JCS inspector failed to scrutinise the details in relation to delivery and state of play of the SUEs.
41. I accept that there are no upper caps on housing numbers within the JCS. Nevertheless, the approach has been found sound and the JCS is a very recently adopted plan which provides a clear development strategy for the area. The plan refers to certain monitoring requirements which would trigger corrective action by the Council if the SUEs were not delivering as indicated.

Delivery rates

42. I have carefully considered the evidence provided by the appellant in relation to housing delivery on strategic sites, which includes a number of studies by different consultants. I note from the Savills report⁶ which is relatively recent, that large sites tend to deliver 60 dwellings per annum reaching over 100 per annum. The higher figures indicate circumstances where there are multiple developers on site which help drive higher completion rates. I have been referred to a slide from a Home Builders Federation (HBF) Planning Policy Conference presentation⁷. The slide refers to large site build rates based on a summary of a survey of its members. It describes an average rate of 70 per year with some between sites delivering between 85 and 95. I note the concerns of the Council that this was not provided with any context and I have not been provided with the detailed results of the survey or the factors the HBF

⁴ Paragraph 033 Reference ID: 3=033-20150327

⁵ EiP Report Paragraph 45

⁶ Urban Extensions, Assessment of Delivery Rates October 2012

⁷ 'Everything and the Kitchen Sink' March 2016

took into account. However, the rates seem to me to be in line with those contained within the Savills report.

43. I note that developers trading statements may indicate that a lower sales figure may be achieved and that other inspectors⁸ have agreed with the approach to use them as a benchmark for housing completions. However, much of the information does not seem to tally with the completions figures produced by the HBF or the information in the Savills report. I also note that the Bovis Homes plc report⁹ extract I have been provided relates only to a seven week period for sales at the beginning of 2016. Other trading statements are half yearly and do not include reference to a weekly sales figure. The trading statements would be likely to include a wide range of sites. Sales information for all sites may not equate to those on strategic sites which seem to generally deliver at higher rates. I note that the sites in Corby referred to by the appellant are delivering between 20 and 30 per builder. However, some of the appellant's suggested figures are also above the amounts calculated from the trading statements as well as the rates at Corby.

Other considerations

44. Wellingborough has previously achieved lower house prices in comparison to England in general. However, the appellant does indicate that the percentage of new homes is about the same as the national average and that there is additional capacity suggesting that there is scope for growth in sales. Based on the evidence before me, I am not persuaded that the market would be a limiting factor on the delivery of the SUEs. To my mind, there is no strong indication that the local market is so weak that the delivery of the SUEs would not perform at least at the average rate described by the HBF.
45. I acknowledge that the Council admits that there has been an historical record of under delivery and is therefore regarded as a 20% buffer authority for the purposes of calculating the housing land supply. However, this is not necessarily indicative that the position will remain the same. I say this having regard to the key role of the Joint Planning Unit (JPU) in housing delivery in the area, in speeding up decisions in the planning process and working with other partners to ensure the delivery of key infrastructure. I also recognise that recent monitoring indicates that there has been an increase in the delivery of housing in the area which suggests to me significant progress is being made. I note that the three main sites at Wellingborough may be in competition with each other. However, it has not been demonstrated how much this would affect the delivery rates in this area in particular and therefore I attach little weight to this factor.

Wellingborough East

46. In terms of Wellingborough East, the appellant considers that this site would deliver 250 homes between 2017/18 and 2020/21. The worst case scenario presented by the Council indicates that 565 homes would be delivered within that period. Both parties agree that the site will not deliver houses in this current year. The appellant contends that the figures suggested by the Council would be unrealistic with time needed for the lead developer to establish the market, reserved matters planning consent and additional house builders to

⁸ APP/C1670/A/10/2140962 & APP/H2835/A/14/2227520

⁹ Annual Report and Accounts 2015

become involved. Bovis are currently the main house builder involved in this site with their involvement extending back to 2004 when the planning application was submitted.

47. From information supplied by the appellant, construction will begin later this year. I accept that the construction of Route 4 which will cross the main railway line has been delayed. However, this is now in progress and there is no indication that this will not be completed within the agreed timeframe. This would provide access to all the different areas of the site.
48. I note the appellant's concerns that Bovis would be unlikely to introduce competition into the site at an early stage. However, recent information provided by Bovis indicates that marketing for the disposal of two of the parcels of land would begin in October 2016. This is in line with the information provided by the Council. I accept that there may be some time taken over land sales negotiations. However, in respect of the timings of delivery once other developers have an interest in Wellingborough East, the role of the JPU seems to me to provide a different framework within which planning applications and other matters will be progressed quickly. I note that regular meetings are held with Bovis and it seems to me that the site is making considerable progress.
49. I consider these factors would facilitate housing coming forward at a rate which may not be achievable in normal circumstances and that the contribution from other developers is likely to be sooner than anticipated by the appellant before 2020/2021. In terms of the perception of remoteness of the site from the town there was no evidence presented to suggest that this would impact particularly on early sales of houses. Taking the above factors into account, I regard the appellant's assessment of the delivery rates to be overly cautious.
50. That said I accept that Wellingborough East is unlikely to reach the numbers indicated by Bovis which they estimate to be between 250 and 300 per annum. I agree that this is well beyond the maximum amount referred to by the HBF although I do note from the Savills report that some sites do perform at the figures suggested. This would indicate that the figure in the Council's worst case scenario of 240 for 2018/19 may also be out of step and I consider that the figure would be likely to be closer to 200 taking into account the suggested number of outlets.
51. In respect of the sites that are referred to as Wellingborough East 'additional capacity', I accept that these are moving through the planning process. However, these do appear to have stalled. Whilst progress is being made on Route 4 given the location of these sites in relation to the major areas of Wellingborough East and a lack of evidence on current progress, I agree that these would be unlikely to come forward before 2020/2021 which would remove 65 homes from the supply.

Wellingborough North

52. The appellant considers that Wellingborough North is unlikely to start on site when indicated. Many of the concerns of the appellant relate to the reliability of previous statements made by the promoter of the site in terms of delivery and timings. I note that the promoter is also involved at Priors Hall Park site elsewhere within the JCS area. This delivered an initial 200 units over a four year period. Notwithstanding this, the difference between Wellingborough

North and Wellingborough East seems to me to be that there has been no start on site with main infrastructure works yet to begin. If initial house builder activity is due to start in July 2017 as recently set out by the promoter¹⁰ I agree that it would be unlikely to see a total of 50 homes completed within the 2017/18 period.

53. In addition, the Council also accepted that the building of the primary school on this site would make a difference to the performance of completions. It was agreed that this is unlikely to be finished before September 2018 as this is reliant on the infrastructure being provided. I concur with the appellant that it would be likely to suppress housing completions in this area. Taking this into account this would suggest that the site is unlikely to see 150 houses completed in the following year and would be around the 50 proposed by the appellant and agreed by the Council as a reasonable starting amount. Following on from this year there would be 150 and 200 in the following years.

Conclusion on the five year supply

54. Taking into account the reduction of the Wellingborough East additional capacity and an anticipated lower figure in 2020/2021 combined with the later start at Wellingborough North this would result in a 5.1 years supply of housing land.

Implications for development plan policy

55. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also sets out that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing land. However, given that I have found that the Council can demonstrate a five year supply of housing land, paragraph 49 is not engaged in terms of the policies being out of date.
56. The appellant argues that even if the Council can demonstrate a five year supply of housing land the policies within the JCS should still be considered out-of-date so that the more onerous planning balance set out in the last bullet point of paragraph 14 of the Framework applies. This on the basis that Part 2 of the JCS would provide local expression for the strategic policies and is not yet adopted. However, I consider that the policies of the JCS including Policies 3, 4 and 8 (a) (iii) are sufficient to provide clarity and certainty against which to judge the proposal, accordingly I give them full weight.
57. I also consider that the conflicts of the scheme with saved Policies G18 and G19 of the LP and Policies 3, 8(a) (iii) and 19 of the JCS means that the appeal proposal would not be in accordance with the development plan as a whole. Therefore, it seems to me that the out of date nature of Policy L5 referred to above, does not cause 'relevant policies' to be out of date in the sense of paragraph 14 and does not trigger the more onerous planning balance as set out in the final bullet point.
58. I have been referred to other inspector's decisions in relation to similar matters relating to development plan policy. However, in terms of the Moulton appeal¹¹ I note that the point related to a policy gap as to where and how rural housing

¹⁰ Core Document 102-M

¹¹ APP/Y2810/A/14/2225722

needs would be met. In the case of the Money Hill decision¹² this relates to a site being outside of the existing limits to development and the plan only identified sites up to 2006. Therefore, I find that the circumstances in those cases are not the same as that before me.

The planning obligation

59. The submitted UU aims to secure financial contributions towards a bus shelter, primary and secondary education, Wilbye Grange Orchard and mitigation for the effects of the development on the Upper Nene Valley SPA. It also contains provisions for an affordable housing scheme, landscape and ecological management and formal and informal open space. The Council has justified the sums for the financial contributions and I consider these and the other measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. The Council have also indicated that the financial contributions would meet the tests of Regulation 123 of the Community Infrastructure Levy Regulations (CIL) 2010 and based on the evidence before me, I see no reason to disagree.
60. However, I have some concerns about the document itself, its execution and thus whether the Council could rely on it to secure the contributions. During the Inquiry the appellant indicated that one of the chargees was not able to sign a s106 agreement. In respect of the UU, the appellant has proposed a condition to the effect that development shall not commence until the chargees have executed a corresponding s106 obligation. As an alternative to the UU the appellant has proposed a number of Grampian conditions for all the contributions and measures contained within the UU.
61. I have had regard to the case law and example presented by the appellant¹³ in respect of the use of Grampian conditions. In the Crawley example, I note that the proposal in that case was for a large scale mixed use development with up to 1900 dwellings, the local planning authority and other interested parties supported the number of Grampian conditions. The Council in this case do not support the options proposed by the appellant. I understand that the situation regarding the chargee was not known until the time of the Inquiry although it is not clear why this was not a matter which could have been identified sooner. I accept that the situation could potentially be resolved but no timeframe was proposed nor it is clear whether the Council would be able to ascertain whether it had been properly resolved.
62. I have been referred to the Planning Practice Guidance which sets out that negatively worded planning conditions may be appropriate in the case of 'more complex and strategically important development where there is clear evidence that the development would otherwise be at risk'. I do not agree with the appellant that the development is strategically important in respect of the matters surrounding the five year supply of housing land and whilst there were a number of witnesses at the Inquiry, the proposed development itself is not to my mind particularly complex. I consider that the circumstances outlined in the Guidance do not apply here.
63. As it stands and for the reason given in the previous paragraph, I am not satisfied that the submitted Unilateral Undertaking or alternative proposed

¹² APP/G2435/A/14/2228806

¹³ Inquiry documents 43, 44 & 45

conditions would make adequate provision for infrastructure and the other measures to meet the additional needs arising from the development and mitigation for its effects. I accept the intentions of the appellant in relation to the obligations. However, I am unable to take the UU into account in coming to my decision.

Other matters

64. I acknowledge that there are local concerns regarding the ability of the nearest doctors' surgeries to cope with additional residents and I was referred to waiting lists to join them. However, I note that there are no objections from the services themselves in this regard.
65. In terms of the types of houses to be provided I understand that local residents are concerned about the suitability for access for wheelchair users and others with mobility problems. However, given that this is an outline application, this is a matter which would be dealt with at the detailed stage.
66. The Highways Authority and the appellant have reached agreement on highway matters based on the proposed access, suitable conditions and a package of measures which includes off-site improvements to the surrounding road network and public transport. However, local residents' concerns remain and the appellant presented evidence on this matter.
67. The Transport Assessment submitted as part of the planning application acknowledges that Northampton Road does experience some congestion at peak periods and I accept that local residents experience some queuing into Northampton and at nearby junctions and roundabouts. The development would result in a very minor increase in traffic at the A5128/A509/A4500 roundabout although the increase in average queue lengths would be added to by one vehicle. The Highways Authority indicates that mitigation for this would not be required. The proposal would include an upgrade of the signalling at the junction of Northampton Road/Kingsway/Queensway which would be more efficient than existing signalling.
68. The scheme has been designed in accordance with the measured speeds of traffic along Northampton Road which averages between 35 and 37 miles per hour and would provide suitable visibility splays. Local residents referred to accidents at the junction of Stanwell Way and Northampton Road. The Transport Assessment also included accident data and this does refer to one fatality. However, I consider that the circumstances of this accident and the analysis of the numbers of accidents overall does not point to particular areas or faults in the highway layout.
69. I note the concerns of residents in terms of the amount of parking to be provided and potential effects on the rest of the area in terms of overspill. However, given that this is an outline application I am satisfied that an appropriate level of parking could be secured in accordance with the relevant standards.
70. As well as those appeal decisions already referred to, my attention has been drawn to a number of others and also High Court and Appeal Court judgements. Consistency between decision makers is important. Some of the cases have features in common with the appeal proposal and refer to housing land supply, landscape and sustainability considerations amongst other things.

However, each of these cases also has different factors which affect the nature of those developments and the Inspectors' conclusions. In any event, I have considered the proposal on its own merits.

Conclusion and balance

71. The Framework establishes that sustainable development should be seen as a golden thread running through both plan-making and decision taking. There are three dimensions to sustainable development – economic, social and environmental. The Framework also makes it clear that the three roles the planning system is required to perform in respect of sustainable development should not be undertaken in isolation because they are mutually dependent.
72. Wellingborough is acknowledged as being a Growth Town. There would be construction jobs created although these would be temporary. The appellant indicates that the development may result in 35 permanent jobs in the area solely as a result of there being homes in place. Other contributions to the economy would come in the form of the developer being a locally based company and annual local spend by residents amongst other things. Whilst these benefits would also be applicable to other housing developments within the area, these factors do weigh in favour of the appeal proposal.
73. The proposal includes a scheme for 30% affordable housing and taking account of the high affordable housing need within the area, this would be a benefit of the proposal. However, given my concerns about the UU or the use of conditions to secure this, the weight I give to this is limited. I have concluded that the Council are able to demonstrate a five year supply of housing land however this is only marginal. The scheme would therefore provide a benefit in contributing to additional housing within the area. There would be small benefits arising from some of the highway proposals associated with the scheme.
74. However, I have found that there would be conflict with the development plan as a whole and the proposal would cause considerable harm in terms of landscape, visual impact and green infrastructure. There would also be a negative effect on ecology and biodiversity. Taking these matters together, I consider that the appeal scheme would not be sustainable development as set out in paragraph 14 of the Framework.
75. I have had regard to all other matters raised, but have found nothing to alter my conclusion that the appeal should be dismissed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Killian Garvey of Counsel instructed by M Simmons, Borough Council of Wellingborough

He called:

Dr Joanne Parmenter	The Landscape Partnership
Joanna Ede	The Landscape Partnership
Jonathan Goodall	Troy Planning and Design
Maxine Simmons	Borough Council of Wellingborough

FOR THE APPELLANT:

Andrew Tabachnik of Counsel instructed by Mr A Parry of DLP Planning

He called:

Mary Davies	James Blake Associates
Rachel Bodiam	James Blake Associates
Roland Bolton	SPRU, DLP Planning
Jamie Cassie	WYG Transport Planning
Andrew Parry	DLP Planning

INTERESTED PERSONS:

T Elliott	Local Resident and for Wilby Way Residents Association
Cllr M Griffiths	Borough Council of Wellingborough
Cllr M Onslow	Borough Council of Wellingborough
K Osborne	Local Resident
Cllr S Scanlon	Borough Council of Wellingborough
S Shoesmith	Local Resident and for Wilby Way Residents Association
Cllr B Skittrall	Borough Council of Wellingborough

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Housing Land Supply Statement of Common Ground dated 23 September 2016
- 2 Appearances and opening submissions on behalf of the Council by Mr Garvey
- 3 Map indicating J Parmenter locations of quadrats in coordinates
- 4 Plan showing correct extent of Anglian Water boundaries dated August 2016
- 5 A3 figures and appendices to proof of evidence by J Ede
- 6 Drawing 14165-Topo-1 (1 of 2) and Drawing 14165-Topo-1 (2 of 2)
- 7 Statement of Mark Best dated 23 November 2014
- 8 Emails from P McCourt to J Thomas dated 13, 14 and 16 September 2016
- 9 Written Statement by S Shoesmith
- 10 Photographs by S Shoesmith
- 11 Evidence of Cllr B Skittrall

- 12 Borough Council Performance Report June 2016
- 13 Winter Views January 2015 A3 size
- 14 JBA 08/166-01 Landscape and Green Infrastructure Strategy Plan Rev
D A2 size
- 15 Decision Notice WP/91/0446/O
- 16 Decision Notice WP/2004/0362/O
- 17 Masterplan Land off Wilby Way for WP/19991/0446
- 18 Extract from Section 106 agreement for Land between Wilby Way and
Kingsway
- 19 Extracts from the Planning Practice Guidance – Housing and economic
land availability assessment
- 20 Letter from David Locke Associates dated 27 May 2016 – The Plan for
the Borough of Wellingborough Emerging Draft Consultation Response
on behalf of Northants LLP
- 21 Extracts from the Planning Practice Guidance - open space, sports and
recreations facilities, public rights of way and local green space
- 22 Map showing records of where *Crepis paludosa* found
- 22 Maps showing records of where *Crepis paludosa* 'Marsh Hawk's-beard'
found
- 23 Emails from J Thomas to J Lougher and from P Boatman to J Lougher
and J Thomas dated 28 and 29 September
- 24 Appendices for J Goodall Proof of Evidence O2-Q3
- 25 Emails between C Armstrong and C Bond dated 28 September 2016
- 26 Extract from www.parliament.uk Building Better Places Chapter 5:
Delivering more housing
- 27 Stanton Cross Press Release July 2016
- 28 Draft Section 106 Agreement
- 29 Email from J Comont to G Stanton dated 29 September 2016
- 30 Written Statement by T Elliot dated 29 September 2016
- 31 Suggested conditions
- 32 Planning Obligations – Compliance Statement (SPA mitigation)
- 33 Extract of Policy 7 North Northamptonshire Joint Core Strategy
- 34 Suggested conditions dated 4 October 2016 and revised 5 October
2016
- 35 Draft Section 106 agreement
- 36 Draft Unilateral Undertaking
- 37 Updated Planning Obligations – Compliance Statement (SPA
mitigation) dated 30 September 2016
- 38 Extract from Rodwell's British Plant Communities – OV24
- 39 Extract from Rodwell's British Plant Communities – OV25
- 40 Submissions on behalf of the Council in respect to the section 106
agreement submitted by Mr Garvey
- 41 Extracts from the Planning Practice Guidance – Use of planning
conditions
- 42 Note on the section 106 obligation on behalf of the appellant
submitted by Mr Tabachnik
- 43 Grampian Regional Council v City of Aberdeen District Council [1983]
47 P&CR 633
- 44 Orchard (Development) Holdings Ltd v Secretary of State [2005]
EWHC 1665 (Admin)
- 45 Secretary of State for Communities and Local Government Decision
Letters dated 26 November 2009 and 16 February 2011 and Inspector
report dated 8 October 2009 (APP/Q3820/A/08/2092933)

- 46 Unilateral Undertaking dated 6 October 2016
- 47 Closing submissions on behalf of the Council submitted by Mr Garvey
- 48 Closing submissions on behalf of the Appellant submitted by Mr Tabachnik

AFTER THE CLOSE OF THE INQUIRY

- 49 CIL Compliance Statement

Richborough Estates