



Appeal Decision

Inquiry opened on 12 June 2018

Site visit made on 18 June 2018

by Mike Robins MSc BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2018

Appeal Ref: APP/K2420/W/17/3188948

Land east of The Common, Barwell, Leicestershire LE9 8NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 17/00531/OUT, dated 26 May 2017, was refused by notice dated 29 August 2017.
 - The development proposed is the demolition of existing agricultural structures and the erection of up to 185 dwellings with public open space, landscaping, sustainable drainage system and vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters other than access reserved for future determination. Nonetheless, submitted with the application was a Development Framework Plan¹, which, while accepted to be illustrative, set out areas for housing and for Green Infrastructure (GI), the distribution of which was relied on in evidence. The appellant agreed in principle to conditions requiring the submission of reserved matters to be broadly in accordance with this plan. I have considered the appeal on this basis.
3. A Unilateral Undertaking, dated 19 June 2018, made under s106 of the Town and Country Planning Act 1990, was submitted to address affordable housing, landscaping and open space provision and relevant contributions. The Council were content that this properly addressed affordable housing provision. Both Leicestershire County Council (LCC), who had requested to appear at the Inquiry as a Rule 6 party, and the Council accepted that the proposed contributions relating to relevant infrastructure fully addressed their previous objections and their reasons for refusal on these matters. I address this planning obligation later in my decision.
4. A late submission comprising a previous nearby planning appeal² was made by a local resident. To ensure fairness, I allowed the appellant a short period post closure of the Inquiry to make representations.

¹ 7660-L-03 Rev D

² ID8 - APP/K2420/A/12/2188915

5. The Inquiry sat for five days. In addition to two unaccompanied visits I made to view the roads surrounding the site, an accompanied visit was made with representatives of both main parties. This included the opportunity to visit the site itself and to take views from the surrounding roads and footpaths as well as from a property along Dawson's Lane.
6. Three Statements of Common Ground (SoCG) were submitted. These addressed matters relating to Archaeology, dated 3 May 2018, Highways, Traffic and Transportation, dated 17 April 2018, and one relating to housing and other matters. This last SoCG, although finalised 20 April 2018, was not fully accepted by the Council, nonetheless these matters were addressed by an agreed further note on Housing Land Supply (HLS). In light of these agreed matters, and following an earlier submission of further and revised details, including an archaeological trenching survey and the Transport Technical Note 1, the Council confirmed that they would not be pursuing their Reasons for Refusal 2, 3 and 4, although I note that a number of these matters remained ones of concern for local residents.

Main Issues

7. Accordingly, the main issues in this case are:
 - The effect of the proposed development on the character and appearance of the area and on the Hinckley/Barwell/Earl Shilton Green Wedge;
 - whether there are any other material considerations, including the delivery of market and affordable housing in the context of the current housing land supply, that determine the development should be approved other than in accordance with the development plan.

Reasons

Character and Appearance

8. The appeal site comprises a number of fields to the south of the settlement of Barwell. Currently in use for the keeping of horses and the grazing of cattle, the irregular shaped site extends from Dawson's Lane south to the A47, with the access proposed to be from The Common to the west. The approximately 11.5 hectare site is made up of nine fields with substantial hedge boundaries and occasional trees, albeit some of these hedgerows are not continuous and have been replaced by post and rail fencing. The site lies within a Green Wedge that was identified as a necessary strategic intervention in Policies 1, 2 and 3 of the Hinckley and Bosworth Core Strategy, adopted 2009 (the Core Strategy), with relevant policy controls set out in Policy 6.
9. The proposed development would be adjacent to the current boundary of Barwell, along which lies some commercial development and generally large and well-spaced properties on Dawson's Lane, a number of which would look out over the site. Linear housing along The Common extends to the edge of the proposed access, while a more recent small housing estate, Garner Close, would also back onto the development. To the east are an area of allotments and a mixed use farm development, both of which lie within the Green Wedge.
10. Barwell is set on a ridge with the land sloping fairly steeply down from Shilton Road with a more gradual slope across the site itself. There is no public access to the site, although a public footpath runs from Dawson's Lane eastwards to

Leicester Road, while pavements and footways down The Common give access to the footpath/cycling network associated with the A47.

11. Located in the Green Wedge and outside of the current settlement boundary, it was common ground that the proposal would, on its face, conflict with Core Strategy Policy 6 and Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document, adopted 2016 (the SADMP).
12. It was also common ground between the main parties that the site was not of a scale to effect the national or indeed regional landscape character; I concur. The local landscape is characterised under the Hinckley and Bosworth Landscape Character Assessment (LCA), 2017, as lying within the area LCA F, Burbage Common Rolling Farmland. This LCA was updated since submission of the application, and was utilised by both main parties in their evidence to the Inquiry. Key characteristics are identified to include smaller scale pasture fields around the settlements, noted as being typical of parliamentary enclosure, urban fringe influences, sparse settlement comprising individual buildings and scattered farm complexes but with major transport corridors dissecting the landscape. Importantly, the key characteristics highlight the functional role of the landscape as part of the Green Wedge, providing separation between Hinckley and Barwell and green infrastructure to the cluster of settlements of Burbage, Hinckley, Barwell and Earl Shilton.
13. The function of the Green Wedge is set out in more detail in the Core Strategy as separating the three settlements, Hinckley, Barwell and East Shilton, to protect their individual identities. Policy 6 acknowledges that there are opportunities to enhance the amenity and ecological value of the area and identifies certain developments to be supported; these do not include housing. All other developments should comply with four criteria set out in the policy. The Green Wedge boundaries were reviewed in 2011.
14. The appellant submitted a Landscape and Visual Appraisal, dated May 2017, which was reviewed by their witness to the Inquiry, acknowledging the updated LCA. Identified as being developed in accordance with GLVIA₃³, the Council raised no issues with the methodology used by the appellant, but reached contrasting views in terms of their own approach and findings of effects, including that the site should be considered as a valued landscape. The appellant also carried out a site specific Green Wedge review, which concluded that the effect of the scheme would be negligible and its functions would remain intact. This contrasts strongly with the Council's findings. Consequently I consider that there are three key areas of dispute: whether the site forms part of a valued landscape; the extent of landscape and visual effects; and the effect on the functioning of the Green Wedge.

Valued Landscape

15. With regard to whether the site is 'valued' in accordance with paragraph 109 of the Framework, there was some agreement between the parties on the principles of such a determination⁴. However, the appellant argued that while there may be visual change from the development, the site is relatively enclosed and influenced by the urban fringe, with nothing rare, distinct or remarkable about it

³ Guidelines for Landscape and Visual Impact Assessment, third edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment, in 2013 (GLVIA₃).

⁴ GLVIA₃ Box 5.1

to establish it as valued. In contrast, the Council's evidence drew on the key characteristic of LCA F, notably the small parliamentary enclosure field system, as being a feature of rarity and importance that took the site beyond the ordinary.

16. I have no doubt that the site is greatly appreciated by local residents, both those who overlook it and those who find it provides a context of open countryside when on walks on the roads and footpaths around it. I accept that while the hedgerows defining the small-scale field enclosures would remain, the introduction of a large-scale housing scheme would significantly erode these field patterns, referred to as a key characteristic of the landscape. It has a clear value and plays an important role in the setting of the settlement, and I address this in more details below. I also accept that, while public access is not formally allowed, the appeal site has a recreational and perceptual value to those using the footpaths and footways. It contributes to the experience of nearby residents and those passing and I can understand how local people draw the conclusion that the site is an important area of countryside.
17. However, in my view, such a contribution, and the presence of such field patterns, cannot be considered to be so significant or the landscape be so rare as to make this site 'valued' in the context of the Framework. The Council themselves accepted that there were no perceptual aspects and associations or conservation interests; overall, I consider it not to be a 'valued' landscape.

Landscape and visual effects

18. This finding does not devalue the landscape and it is a site that I consider plays an important role in the setting of the settlement, a role recognised in the LCA, which considered the urban characteristics of Barwell under UCA 9. While the site is relatively well enclosed, the introduction of a large housing estate and the necessary works to provide a safe access would, to my mind, extend the settlement considerable closer to the A47 and this change would have a negative impact on the countryside landscape and the settlement, whose key sensitivities include its rural setting and views to the south from Shilton Road.
19. The appellant, referring to the settlement edge location and the presence of uses and influences around the site, found it to have a low-medium susceptibility to change and to be of medium landscape value. Thus reaching a general finding of landscape effects in the immediate local context as moderate adverse reducing over time, and minimal on the wider scale. Visually, it was argued that while nearby residents may experience notable visual change, for receptors beyond these properties, the effects would be minor to moderately adverse, reducing over time.
20. However, while I note the appellant's findings, I consider that they have underplayed the impact of up to 185 dwellings on the landscape here.
21. In landscape terms, I accept that there is an urban influence to the northern edge of the site, in particular from the commercial development along Dawson's Lane. However, from within the site and indeed from views over it from Shilton Road, along Dawson's Lane and overlooking from the allotment area and its parking, the site is demonstrably a part of the countryside and, importantly, reflective of the key characteristics of the landscape here, in that it provides an important role in the setting of the settlement and as a buffer to the A47 and the rural character beyond. Similarly, to the lower part of The Common, the

substantial hedgerow and glimpsed views into the site reinforce the presence of a rural landscape buffer and separation of the town from the A47.

22. Whilst the scheme proposes to retain, manage and reinforce the hedgerows, they will no longer define field boundaries, but will become somewhat arbitrary boundaries between groups of houses with interlinking roads. There is benefit in their retention, but the introduction of large scale housing here would represent a considerable erosion in the landscape value and the characteristic small-scale field pattern.
23. This cannot be set aside because the site is relatively well contained, nor because additional land has been identified to provide areas of managed but open land to the east and south of the site. While on an individual scale, houses may not be readily perceived, I have no doubt that the rooflines, the general groups of houses, some visible gables and the activity from an estate of up to 185 houses would have a presence that would alter the experience of the landscape fundamentally, eroding its current nature and its role in the setting of Barwell; it is a change that would be clearly perceived.
24. Visually, the well contained nature of the site arises ostensibly because of the relatively flat topography, the surrounding hedgerows and the limited viewpoints from within the town, and this may limit the visual impact somewhat. Nonetheless, for those using Dawson's Lane, and progressing along the lane to the allotments and into the fields to the east, and for all entering or leaving Barwell along The Common, their experience of the town and its relationship with the countryside would be very different. The overview offered from Shilton Road, and recorded as being important in the key sensitivities and values of Barwell, set out under UCA 9, would also change. I accept that there has been a response in the site layout to provide the clearest view from here as a managed area of open space, but this too would represent a change from rural/agricultural character, and there would undoubtedly be perceptions of the housing too. While the long distance views out over the site from Shilton Road would remain, the nearer distance ones would not be of countryside extending deep into the town, but of managed space and housing extending further from the current urban edge.
25. Along The Common, the necessary alterations to the road, the setting back of the hedge and the more open views into the estate would all pronounce the presence of housing here and a further indication of the urban edge of the town being pushed considerably closer to the A47.
26. In relation to both visual and landscape effects, while I consider there is a certain attraction to the simplified approach to assessment offered by the Council, there are risks in terms of a full understanding of some of the findings, which may be further affected by the conflation of landscape and visual elements. I fully accept GLVIA₃ is not prescriptive; nonetheless, it has and does provide a guiding framework for the analysis of landscape and visual effects. Consequently, while I found the appellant's arguments to underplay effects outside of the site, I found those of the Council, promoting generally high significance across all elements, to not be fully reflective of the urban fringe elements of the site, nor its relatively well contained nature.
27. However, in conclusion, I do find that the appeal scheme would represent a large incursion of housing into a landscape which, while being on the edge of a town retains a strong rural character, particular where perceived from the adjacent

roads and footpaths. While I accept that LCA F is a relatively large scale area, the scheme would harm key characteristics specifically identified as supporting the setting of the town and would significantly erode the character of the landscape here. I consider that the LCA has correctly identified key sensitivities in the rural setting and the views south towards the countryside in which the appeal site plays a substantial role. Such harms would be only somewhat moderated by the proposed layout and the reinforcement of some of the landscape features, and while the commitment to a high proportion of public open space may be a positive addition, it is insufficient in my mind to set aside the considerable harm to the character and appearance of the site.

Green Wedge

28. The role of the Green Wedge is identified as seeking to guide the development form of an urban area, maintain settlement identity through protecting the separation of settlements and contribute to the quality of life of residents by providing accessible green infrastructure. Originally introduced by Structure and Regional Plans, this Green Wedge was identified in the Core Strategy, with specific policy controls set out in Policy 6, but with a requirement for a review as part of the development of the SADMP. The SADMP refers to the Green Wedge in various policies, but seeks protection through compliance with Policy 6 of the Core Strategy.
29. The review was completed in 2011 and divided the Green Wedge into a number of areas. The appeal site lies within Area C, the findings for which were that the site is particularly sensitive to coalescence, the provision of a green lung and a recreational resource; the review made no suggested boundary amendments. The assessment found that any significant built development in Area C would have an impact on coalescence. An assessment of the Strategic Housing Land Availability Assessment (SHLAA) (2009) sites in the review, also identified a site referred to as 'Land east of The Common/South of Dawson's Lane', AS64, which was considered to be 'non-developable'. The comments of the Local Plan Inspector at that time noted that the release of such sites for housing would weaken the function of the Green Wedge. I have no detail on the specific site or scale of that SHLAA proposal, but it would appear relatively analogous to the appeal site, albeit I note the reference to those sites being highly visible and I have accepted that the housing element of the appeal site would be visually contained.
30. Core Strategy Policy 6 is permissive of certain developments, the list of which does not include housing. However, this is not, and cannot be a Green Belt style policy, and other land uses can be considered against further criteria, including that the development should retain the function of the Green Wedge, retain green networks, retain and enhance public access and retain the visual appearance of the area. I am satisfied that such an approach is consistent with the Framework.
31. A site specific Green Wedge Review presented to the Inquiry by the appellant concluded that there would be a negligible effect on the separation of Barwell and Earl Shilton, that the proposed development would establish a more defensible boundary, enhancing the guiding of development form, and that the opening up of the open space to public access would enhance its recreational role while providing connectivity to the paddocks below Shilton Road, maintaining the green lung element.

32. In practical terms, the settlements of Barwell and Earl Shilton are already joined near the junction of Leicester Road, Shilton Road and Hinckley Road. However, this was the case when the Green Wedge was reviewed and its key role in preventing coalescence of the towns identified. A gap is established by the Green Wedge from The Common across to Elvesthorpe Lane, with the extension of open paddocks extending up to Shilton Road providing an important green lung element and a clear appreciation of the town's setting and relationship to the wider countryside.
33. While I note the appellant's argument that housing would not extend further east than the individual plots on Dawson's Lane, I am not convinced by this. A housing estate of the scale promoted here would undoubtedly have a far greater density and impact than the individual houses in expansive plots found along Dawson's Lane and the housing would project substantially southward, beyond the existing housing on The Common. For those passing along Dawson's Lane or along The Common, or those with glimpsed views from the allotments and back from the footpath linking to Leicester Road, or even from the future paths associated with the development were it to occur, the estate would be clearly perceived as a significant incursion into the Green Wedge.
34. While this may represent only a small part of the wider Green Wedge, it is a substantial part of the Area C considered in the 2011 review. To suggest that the function of the Green Wedge is not affected because only a relatively small part would be lost is not a sufficient argument on its own, and is one that if repeated would lead to substantial erosion of that function. This proposal would result in increased coalescence of the settlements of Barwell and Earl Shilton.
35. Turning to the function of guiding development form, this may well be a forward planning function, but it is to guide the form of new development as urban areas are extended. It is not intended to encourage development within the Green Wedge, and indeed is likely to have contributed to decisions regarding the location of the Strategic Urban Extensions. Where development does take place it is, to my mind, intrinsically linked to maintaining the roles of preventing coalescence, encouraging the provision of recreation resource and acting as a green lung.
36. I do accept that providing open access to the eastern field with connections through housing to the southern field and potentially onto the footway and cycleway network of the A47 would enhance public access and provide a recreation resource. However, it would do so by narrowing the countryside incursion to Shilton Road and altering its characteristics, while also, as I have set out above, altering the experience of those using the existing routes from one of entering the countryside to one of an urban extension towards the A47.
37. The current boundary here is twofold, with Shilton Road establishing the edge of the countryside incursion and Dawson's Lane the extent of housing. I accept that this weakens the boundary somewhat, but I cannot accept that extending housing further towards the A47 would strengthen it.
38. Overall, the enhanced public access would not outweigh the reduced green lung function and the clear perception of coalescence that would be introduced by the scale of housing proposed.

Conclusion on Issue 1

39. I accept that the scheme has had landscape input into its layout as set out in the Development Framework Plan, and that the provision of green infrastructure and public access has further informed the in principle layout. I also accept that, for the purposes of the Framework, the site should not be considered 'valued'. Nonetheless, I have identified that the scheme would harm the character and appearance of the landscape here, resulting in a perception of the town extending south towards the A47, and an erosion of the Green Wedge, which, despite some additional recreational resource provision would result in harm to its function and the visual appearance of the area, increased coalescence and a reduction in the green lung. In this I find that the scheme would differ from that considered in another part of the Green Wedge by an Inspector in 2011⁵, where that site was found to not harm the character and appearance of the area including the Green Wedge, and was a site identified in the SHLAA and surrounded by defensible boundaries.
40. The proposal would fail to comply with SADMP Policy DM4 and Core Strategy Policy 6, in this regard. These policies seek to ensure that the intrinsic character and beauty of the open countryside is protected and development in the identified Green Wedge restricted to that which would promote the positive management of the land and its functions.
41. It was common ground that the Core Strategy policies seek to provide for housing across the district drawn from an earlier requirement now found to be lower than the assessed need now. As a consequence these policies can be considered to be out of date, as must the SADMP policies which similarly draw on the Core Strategy approach. The scheme, and the weight arising from conflict with these policies, must therefore be carefully considered against the weight of all relevant material considerations.

Material Considerations

42. The Framework is a notable material consideration in housing cases. Here it is accepted that the Framework seeks to boost significantly the supply of housing. As a result of the acceptance that the development plan policies are out of date, with the housing requirement being agreed as 471⁶ dwellings per annum (dpa) rather than the 450 dpa established under the Core Strategy, this affects the weight ascribed and I address this in my planning balance below. Furthermore, the tilted balance as set out in the Framework's presumption in favour of sustainable development, also applies. This sets out that for decision taking, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
43. Specific benefits were highlighted by the appellant who also argued that there was particular weight arising in favour of open market and affordable housing as a result of the housing land supply (HLS) situation within the Borough.

Housing Land Supply

44. Put simply, the Council consider that they can demonstrate a 6.06 years supply, while the appellant's set out 3.0 to 3.5 years supply. The difference arises in the

⁵ APP/K2420/A/10/2142660

⁶ Taken from the Leicester and Leicestershire Housing and Economic Needs Assessment (HEDNA) 2017

contention that the Council should utilise a 20% rather than a 5% buffer, as per paragraph 47 of the Framework, and in the assessment of supply from six large sites and two Strategic Urban Extensions (SUEs).

45. Turning to the buffer, the Framework requires that Councils plan for a five year supply of deliverable sites with an additional buffer of 5% to ensure choice and competition in the market; only where there can be demonstrated a record of persistent under-delivery should the buffer be increased to 20%. The evidence indicates that for seven of the previous twelve years the relevant housing target has not been met; this is the appellant's preferred period for assessment. The Council point to the past seven years, where for four years the target has been exceeded and a surplus of housing delivered overall.
46. It is of note that previous Inspectors looking at the issue of the appropriate buffer⁷ in recent appeals have not found evidence of persistent under-delivery, although I accept they have looked over different periods and that, as the appellant points out, delivery over the past few years indicates a downward trajectory. However, it cannot be realistic to expect a Council to exactly meet their targets every year, there must be some variation in delivery and there will be peaks and troughs.
47. While this supports examining trends over the long rather than short term period, ultimately this is a judgement on whether a Council have responded to the requirement to support housing delivery as sought by the Framework. The Core Strategy envisaged a housing supply dominated by delivery from the two SUEs. I deal with the delivery from these later, but there is no doubt that these did not deliver as expected in the years following the adoption of the Core Strategy. Despite this, a strong supply of housing has been maintained, excepting the period of national downturn post 2007/8.
48. Considered on this basis, the under-provision over the twelve year period of some 261 houses and the over-provision in the last seven years against the higher HEDNA target, which reflects previous under-supply, is not, to my mind, indicative of a Council that can be said to have persistently under-delivered. Accordingly, I consider that a 5% buffer is appropriate.
49. Turning to supply, the Council's assumptions on delivery from six sites and the SUEs were challenged by the appellant. Subject to the appellant's acceptance of delivery from Island House, the differences are set out in the table in the agreed HLS SoCG.
50. The inclusion of sites and estimation of housing from those sites depends on an assessment of their deliverability; in effect the likelihood that housing will be delivered in the five year period on that site. In light of previous judgements, it is appropriate to consider this to compromise three elements. The appellant does not challenge that these sites are available, nor that the location of the sites is unsuitable, but suggests that delivery as expected by the Council is not a realistic prospect within the five year period. As set out in the St Modwen Development Case⁸, *"The assessment of housing land supply does not require certainty that the housing sites will actually be developed within that period. The planning process cannot deal with such certainties."*

⁷ APP/K2420/A/2208318, APP/K2420/W/15/3003301, APP/K2420/W/15/3004910

⁸ CD 12.4 - St Modwen Developments Ltd and (1) Secretary of State for Communities and Local Government (2) East Riding of Yorkshire Council and Save our Ferriby Action Group [2016] EWHC 968 (Admin).

51. Accordingly, there are uncertainties in the deliverability of any site, including variations in the market, the availability of relevant infrastructure, even the availability of skilled craftsman, which may alter circumstances and many will sit outside of the Council's control. I am satisfied that the onus is to show not that there is clear and certain evidence a site will go ahead, but clear evidence, beyond that of mere doubt, that there is no realistic prospect of the site being developed within the five year period. I have considered the relevant sites on that basis.

Land off Paddock Way

52. A lapsed planning permission on this allocated site allowed for a development of 10 houses. Although the developers are now appealing a refusal for a scheme of 55 houses, the allocation, the previous permission and the small-scale nature of this scheme leads me to conclude that there is a realistic prospect of at least 10 houses being delivered within the period.

Sedgemere

53. Although the site has planning permission for 57 units, the developer is reported to be seeking a variation to reduce this to 45 units, responding to an infrastructure issue. The Council report they are minded to approve, but accept there is a land ownership issue, although the evidence from the developer suggests this is being addressed. To my mind, there is a willing developer, prepared to address the infrastructure and land ownership constraints on the site, and there is sufficient time to deliver the units even were there to be some delay engendered by the land ownership issue.

Birch Close

54. This is a site for an affordable housing development, with grant support, and a previous permission. During the course of the Inquiry, the Council reported that agreement on the level of contributions had been reached, with a positive recommendation to Committee. I accept that this does not guarantee a positive outcome, but it is indicative that there is a viable development being actively pursued, and even if there were to be some delays through further negotiations, it remains a realistic prospect for delivery within the period.

Westfield Farm

55. This is a site with outline permission and a reserved matters application for 328 units. Both parties accept that housing will be delivered on the site, but the appellant considers that delays will mean that completions will be pushed back a year reducing the contribution from 192 to 135. The forecasted delivery is from the developer, confirmed by email. While I note that this does not confirm actual delivery rates and must be treated with some caution, there is no evidence before me to suggest that such a trajectory indicates anything other than a willing developer, keen to start work on site. However, the stated intention to complete units within the current year would appear somewhat ambitious in light of the need to resolve the reserved matters and s106. Accordingly, I consider that it would be realistic and appropriate to discount the identified 2018/19 units, a reduction of 14.

Land north east of Triumph Motorcycles

56. This is a site with outline planning permission and a reserved matters application. Currently suggested to be taken forward by a single housebuilder, the ambition is to deliver at 80 dpa with an overall contribution of 300 units. Correspondence with the developer indicates a somewhat reduced contribution in the five year period from previous assessments, based on land negotiations and a later start. Nonetheless, the developer still expects to achieve this level of annual delivery. This is contested by the appellant, who consider that 120 units should be discounted.
57. Two issues arise, whether such delivery rates are feasible in the Hinckley market from a single developer, and whether it is realistic to achieve completions within the time frame set out.
58. The Council generally accept a 40 dpa figure for a single housebuilder in the Hinckley area. However, the appellant accepted that the developer promoting the land, and with direct association with the Triumph factory, had delivered housing at this rate in other areas, albeit these were, in the appellant's opinion, areas with stronger housing markets. It would appear that a build-out rate of 80 dpa has not been achieved by a single housebuilder in the Hinckley area, nonetheless, the Council's evidence suggest, via email confirmation, the developers intention to do so here.
59. I must assess what is realistically deliverable on this site. While it is clear, and accepted between the parties, that there is a willing developer, and one with experience of delivering at high annual rates, I am concerned about the need to complete on land negotiations and particularly to complete on the infrastructure requirements to deliver the scheme. While I note the developer's intention to begin this infrastructure work in January 2019, and that there may be the potential to develop the scheme's earlier phases in parallel, in my view, a discount reflecting potential delays should be applied to the contribution to the five year supply.
60. I have no convincing evidence that the ambition of this particular developer, as regards build-out rates, will not be fulfilled, but consider it realistic to accept that the delivery of completed dwellings will be delayed, thus removing 60 units from the Council's calculations. Such an approach is reasonable, resulting in a current assessment of the delivery of housing from this site at 240 units in the five year period.

Brick Pit

61. A former clay pit which has planning permission for the importation of material to fill the pit and for residential development for up to 60 dwellings; this was granted on appeal following application to LCC. The site is an allocation and a reserved matters application has been submitted to LCC. However, the Council have refused permission for a scheme for 60 houses submitted to them; it would appear that an appeal has been lodged against that decision. The Council report that the scheme is for affordable housing and is grant funded and that their objection is solely on design matters.
62. The principle of residential development on this site would appear to have been established by the extant planning permission. The Council has suggested delivery in the last two years of the five year period, reflecting the need to fill the pit prior to development. Nonetheless, while acknowledging the uncertainty associated with the currently refused application to the Council, the extant

permission and the funding support would suggest that delivery of this site remains realistic at this point.

The Strategic Urban Extensions

63. The Core Strategy, Policies 2 and 3, allocated land to the south of Earl Shilton and the west of Barwell for SUEs. This was supported by the Earl Shilton and Barwell Area Action Plan (AAP), where the allocations were proposed for delivery under Policy 1, and were included in the SADMP. Initial projections in the Core Strategy were that housing would arise from the SUEs in 2012/13 and should by today's date have been delivering approximately 400 dpa. This has clearly not happened.
64. The bringing forward of such large sites, with land ownership, infrastructure and delivery issues, is a complicated process and the Council admitted that they have needed to provide additional resources through a major projects team to help move them forward.
65. Nonetheless, there is no question that the Council have considered that the SUEs would provide housing much earlier in the plan period than is now reflected in the evidence before me. This is recognised in a number of appeal decisions⁹ provided, which have either reflected on the delays and uncertainty and discounted delivery from these SUEs, or later decisions that have relied on revised delivery trajectories to support the Council's projections on housing supply.
66. The Council have provided more recent evidence of discussions with developers and the consortiums involved, and confirmation that there has been progress on the sites such that they are promoting a revised projection of 500 units, delivering from year 2, at Barwell, and 380 units, delivering from year 3, at Earl Shilton.
67. The appellant points to what they consider to be continuing uncertainties and questions over the engagement with the consortia involved, which they say undermine the Council's assessment. By further reference to a report carried out by Hourigan Connolly¹⁰, which the appellant promotes as evidence that such developments do take a protracted period to come on-line, it was suggested that the circumstances at both SUEs mean that there will be no housing delivery within the next five year period.
68. For the Barwell SUE, an outline planning application for a mixed use scheme comprising up to 2500 dwellings was submitted in 2012, and a resolution to grant permission made in 2013, updated in 2015. There is no doubt there has been protracted negotiations over the site and in particular the s106 agreement necessary to progress to a grant of planning permission. However, it is also clear that significant strides have recently been taken. It was reported that the majority of interested parties had now signed the agreement. No substantive evidence was put to me that others, reported to be only two parties, would not. I accept that signing a document should be a relatively quick process. However, it is not unreasonable to expect that each of the reported 14 parties involved

⁹ Including APP/K2420/A/13/2208318, APP/K2420/W/15/3004910 and APP/K2420/W/17/3187222, 3186837, 3186840

¹⁰ A Report into the Delivery of Urban Extensions, on behalf of Gladman Development Ltd 2014 – Appendix 2 Mr Tait PoE.

would need time ensure that the document was fully in accordance with the lengthy discussions that must have preceded its production.

69. The appellant also points to the recent loss of a national housebuilder from the consortium. I accept that this would appear to reduce the potential for the highest delivery rates anticipated from the site in early years, were they not to be replaced. However, I do not consider that an inference on the quality of the scheme or opportunity at Barwell can necessarily be drawn, as I have no substantive evidence on the reason for that withdrawal. Furthermore, the revised trajectory presented to this Inquiry is indicative of a lower number of housebuilders on site in the early years.
70. This trajectory, as presented by the lead developer, is strongly questioned by the appellant, suggesting that the Council encouraged a 'positive' response in referring to this appeal and to potential competition. This latter point has limited traction, with in excess of 450 dwellings identified as needed per year, even a development of the scale of that before me cannot realistically be considered as sufficient competition to limit the deliverability of a 2500 dwelling scheme planned for delivery over some 15 years.
71. I have considered the wording of the correspondence between the Council and the developers carefully. There is some insistence on needing a response and some reasons given for that, but this could reasonably be concluded as being driven by the timescales of the submission of evidence and I cannot conclude that it necessarily has resulted in an overtly optimistic trajectory. As I have indicated above, such developer projections regarding delivery from development may need to be treated with caution, but I can see no reason why, in this case, a conclusion that no housing will come forward, as promoted by the appellant, should be necessarily be drawn.
72. There is clearly further work required before housing can be delivered on site, not least completion of reserved matters, highway agreements and infrastructure provision. However, following completion of the s106, the Council have delegated powers to issue the planning permission, which will be a very significant step forward. I note the matters raised in *R (oao Kides) v South Cambridgeshire DC*¹¹. However, with the Council's Committee having last considered the scheme in 2015, I see no reason why that delegated decision should not be forthcoming. It is an ambitious target to be delivering housing in 2019/20 on this site, but noting the recent progress made, I have no compelling evidence to suggest that it is not now realistic. To that extent I am in agreement with my colleague in the recent linked appeals at Stanton under Bardon¹², although I cannot presume what evidence was before that Inspector.
73. Turning to the Earl Shilton SUE, there is no planning permission or indeed application, but the Council report that it is the intention of the consortium to resolve viability issues prior to applying, and the Council to secure a planning performance agreement (PPA) to support the process.
74. However, it would appear that viability, an aspect of deliverability highlighted in the Framework, is a significant issue at present. The Council suggest that no affordable housing proposed on the site is only a starting point, and the response

¹¹ ID 11 - *R (oao Kides) v South Cambridgeshire DC* [2002] EWCA Civ 1370

¹² APP/K2420/W/17/3187222, 3186837, 3186840

from the consortium would suggest that they are content with the proposed trajectory on the basis of their discussions, including on viability.

75. My colleague in the Stanton under Bardon appeals had concerns over delivery, suggesting a delay of a year, which has been factored into the projections before me. I have similar concerns about the time that will be taken to resolve the viability issues, albeit I cannot see these as preventing development entirely on the site. There are further requirements including completing the Environment Statement, negotiating a final s106 agreement and achieving planning permission, even before site issues relating to infrastructure and groundworks can begin. On the basis of the evidence that is before me, and taking account of the benefits that the experience of the Barwell SUE and potential front-loading of some issues will bring, I still consider that the proposed delivery is optimistic. However, I do not accept that there will be no delivery within the five year period and consider that a further year of delay is likely before housing is successfully delivered on the site. I conclude that an overall delivery of 220 units from the site remains realistic; a discount of the 160 units from year five.

Conclusions on Housing Land Supply

76. I have found that a 5% buffer is appropriate at this time, and have carefully considered the deliverability of the proposals relied on by the Council in reaching their assessment of supply over the five year period. The availability and suitability of the relevant sites are not contested in principle, and the Council have provided evidence to support their conclusions regarding the realistic prospect of delivery. In most cases I am satisfied that this evidence is sufficient. While there were arguments put which may suggest doubts over deliverability, and unquestioningly for some of the sites further challenging work may be needed to ensure that delivery, these generally have not amounted to the sort of robust evidence necessary to suggest that the sites are not capable of delivery; certainty does not need to be demonstrated.
77. However, I have found some questions over the delivery of housing from Westfield Farm, land northeast of Triumph Motorcycles and the Earl Shilton SUE. Cumulatively this results in a reduction in the Council's projected supply of some 234 dwellings, resulting in a 5.5 year supply. Even if I were to discount, for example, the Barwell SUE by a further year at 200 units, the figure would reduce to a 5.1 year supply, which, although marginal, would still confirm that the Council could meet the Framework requirement.
78. Accordingly, I conclude, for the purposes of this appeal, that the Council can currently demonstrate a five year supply of deliverable housing land.

Other Matters

79. I am conscious of the significant concerns of local residents as regards highway safety matters, particularly on The Common, surface water drainage concerns and the possibility of garden or even property flooding, and wildlife concerns.
80. The appellant provided a comprehensive set of transport assessments and confirmation that the design of the access was agreed with the Highway Authority. A proof of evidence was submitted to the Inquiry and I had the opportunity to question the appellant's highway witness. I can understand concern that such a large development would introduce considerable levels of traffic. However, I have reviewed the evidence submitted and note that where

congestion may result, appropriate contributions had been agreed to address this, with further contributions to support public transport options. In relation to highway safety, the narrow sections of The Common were noted, but the evidence does not support increased safety concerns.

81. Turning to drainage issues, there is clearly some historic surface water drainage issues associated particularly with the western and southern parts of the site, and a flood risk assessment and surface water drainage strategy have been developed, including a proposed attenuation basin. With appropriate conditions, I see no reason why a drainage solution could not have been delivered at this site that would mitigate for the areas of hard surfacing and run-off and ensure that the surface water drainage to surrounding properties would not be increased.
82. While I have noted further local concerns regarding the presence of wildlife on the site, it is currently predominantly pasture land with limited environmental potential. The hedgerows would provide some foraging areas and habitat, but as set out in the Ecological Appraisal, the intention is to retain all trees and hedgerows as part of the scheme and provide new habitats associated with the open space and drainage features. With appropriate conditions, I can see no reason why the site could not have been developed without significant impacts on biodiversity.
83. There were no objections from the Council or the Highway Authority and LCC on these matters.
84. Local residents did submit a previous appeal¹³ from 2013 regarding development of the land to the north of Dawson's Lane running up to Shilton Road. This found significant harm arising to the green lung function of the Green Wedge. To a limited extent this could be considered to reinforce my concerns regarding the views and experience of users of Shilton Road when looking out over the appeal site, but must state that this development would be on the steeper slope element and considerably more visible to those looking out from this vantage point.
85. Finally, turning to the submitted planning obligation, I have set out above that the UU was confirmed by the Council and LCC, acting as a Rule 6 party, to meet their requirements. Notwithstanding the Council's submitted CIL compliance report¹⁴, the appellant raised some issues regarding the approach set out in the AAP. In light of my overall finding in this case there is no need for me to assess these matters further. However, I am satisfied that, where relevant, the UU presented suitable mitigation approaches for any potential harms that could arise from the development. These are therefore neutral in any planning balance, and I have noted benefits associated with public access. Furthermore, it makes suitable provision for affordable housing, which would represent weight in favour of the proposal, which I address below.

Planning Balance and Conclusions

86. While I have found that the Council has demonstrated a five year HLS, policies in the Core Strategy and the SADMP are accepted to be out of date as they focussed on delivery of a lower housing requirement than is now accepted by both main parties. Nonetheless, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990

¹³ APP/K2420/A/12/2188915

¹⁴ Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The tilted balance as set out in the Framework applies.

87. Notwithstanding the age of the Core Strategy and the altered housing need, the Council would appear to have maintained sufficient flexibility in the application of those policies to ensure that housing supply has remained relatively strong, even in light of the delays associated with the SUEs, as set out above. In these circumstances, I consider the proposal, set in the countryside and outside of the settlement boundary for Barwell, conflicts with the strategic approach to housing. I am further satisfied that the policies against which I have found specific conflict, Core Strategy Policy 6 and SADMP Policy DM4, remain consistent with the Framework and I accord them significant weight. However, I do recognise the Framework seeks to significantly boost the supply of housing.
88. The proposal would result in the delivery of up to 185 houses, including up to 37 affordable homes. That nationally there is a need for housing is accepted, that there is a local need for affordable housing is also accepted. However, although these benefits were agreed by the Council to be significant, in light of my findings on the five year HLS, this tempers the weight that I ascribe to the provision of this housing.
89. To this I can add economic benefits associated with construction, albeit these would only be temporary, additional spend in Barwell, although there is no evidence that the town needs additional housing to support its level of facilities and services. I note the SoCG accords these significant weight, although these are benefits that would arise with any housing development. I give moderate weight to the enhanced access provided by the open space proposed and some further moderate weight to the enhanced biodiversity associated with the reinforcement and new planting of hedgerows and trees.
90. Against this, I have identified harm to the landscape character and appearance of the area. On its own, because of the relatively contained nature of the site, this would attract moderate weight, and I am conscious that to meet the housing needs, greenfield sites adjacent to current settlement boundaries may have already been permitted and are likely to be permitted into the future. However, the site is also an integral part of a Green Wedge, I have set out above that I consider the site would significantly erode the function of coalescence, visual appearance and the green lung element afforded by this site. These harms together lead me to conclude that substantial harm arises to the character and appearance of the countryside, the setting of the town and the function of the Green Wedge. On balance, and in light of my findings on the provision of housing in the Borough, I consider that these adverse effects significantly and demonstrably outweigh the benefits I have identified.
91. Accordingly, the presumption in favour of sustainable development does not apply and material considerations do not justify making a decision other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mike Robins

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards of Counsel	Instructed by Hinckley and Bosworth Legal Services
He called	
Dr David Hickie BSc(Hons) MA PhD CMLI MIEMA IHBC	David Hickie Associates – Landscape consultant
Helen Nightingale MRTPI	Principal Planning Officer (Major Projects) – Housing Land Supply
Helen Knott MRTPI	Principle Planning Officer

FOR THE APPELLANT:

Thea Osmund-Smith of Counsel	Instructed by Gladman Developments Ltd
She called	
Jason Tait BA(Hons) DipTP MRTPI	Planning Prospects – Housing Land Supply
Timothy Jackson BA(Hons) DipLA CMLI	FPCR Environment and Design Ltd – Landscape and design
David Schumacher MSc DipMS CMILT MCIHT	PRIME Transport – Highways
Laura Tilston BSc(Hons) MA MRTPI	Gladman Developments Ltd

INTERESTED PERSONS:

Mrs Rosemary Leader	Local Resident
Mrs Diane Vernon	Local Resident
Mrs Susan Lamprell	Local Resident
Mr Paul Lamprell	Local Resident
Mr Steven Djurovich	Local Resident

DOCUMENTS

- ID1 CIL Compliance note
- ID2 Appeal decision APP/X1355/W/17/3180108
- ID3 Appeal decisions APP/K2420/W/17/3187222, 3186837, 3186840
- ID4 s106 Unilateral Undertaking
- ID5 Appellant's opening statement
- ID6 Council's opening statement
- ID7 Draft Conditions
- ID8 APP/K2420/A/12/2188915
- ID9 Council's closing statement
- ID10 Appellant's closing statement
- ID11 R (oao Kides) v South Cambridgeshire DC [2002] EWCA Civ 1370
- ID12 Appellant's response to ID8.

Richborough Estates