
Appeal Decision

Inquiry held on 4-7 November 2014

Site visit made on 7 November 2014

by G D Jones BSc(Hons) DMS DipTP MRTPI

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

Decision date: 12 December 2014

Appeal Ref: APP/J3720/A/14/2217115

**Land off Godsons Lane, Napton-on-the-Hill, Southam, Warwickshire
CV47 8LX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by A C Lloyd (Homes) Ltd and W, B and K Watson and T Petyt against Stratford on Avon District Council.
 - The application Ref 13/02690/FUL, is dated 16 October 2013.
 - The development proposed is residential development of 28 units with associated car parking, landscaping, access and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the residential development of 28 units with associated car parking, landscaping, access and associated works at Land off Godsons Lane, Napton-on-the-Hill, Southam, Warwickshire CV47 8LX in accordance with the terms of the application, Ref 13/02690/FUL, dated 16 October 2013, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. I have principally used the site description from the appeal form as it gives a clearer indication of the site's location than that of the application form. I have also used the description of the development from the appeal form as it reflects the agreed amendments made to the application prior to the appeal being made.
3. The Council maintained that it could demonstrate a National Planning Policy Framework compliant supply of housing land at the time of submitting its main evidence. However, during the course of the Inquiry it advised that for the purposes of this appeal it cannot demonstrate a five-year supply of housing land.
4. During the Inquiry the appellants and the Council submitted a signed Deed of Agreement¹, dated 4 November 2014, made under Section 106 of the Town and Country Planning Act 1990, (the S106 Agreement). In the event that planning permission is granted and implemented the S106 Agreement would secure the provision of on-site affordable housing; the provision, maintenance

¹ Document 4

and transfer of on-site open space and a sustainable urban drainage scheme; financial contributions towards the provision/improvement of off-site public open space, footpath, library and secondary/sixth-form education services and facilities; and householder travel packs. I have had regard to the S106 Agreement during my consideration of the appeal.

Main Issues

5. The main issues are:

- The effect of the proposed development in terms of landscape character and visual impact; and
- Whether any harm arising is outweighed by any other considerations including whether there is a National Planning Policy Framework compliant supply of housing land in the area.

Reasons

Background

6. The appeal site is located on the eastern edge of the village of Napton-on-the-Hill. It has an area of some 1.3 hectares and forms part of the lower slopes of the hill on which the village stands. It is comprised of the south eastern part of a field used for grazing livestock. The greater field is unusual as it forms a broad corridor that extends the agricultural fields, which characterise the countryside in the wider area, up to Vicarage Road close to the heart of the village.
7. The appeal development would include 28 dwellings, 11 of which are proposed to be affordable homes. Vehicular access would be formed off Godsons Lane near St Lawrence Close to the south. A public footpath that runs through the site from Fell's Lane northward to Vicarage Road would be set within a central corridor of open space. It is also proposed to retain the mature hedgerows that line much of the site boundary.
8. Napton-on-the Hill has a range of facilities, which are located within some 400 metres of the proposed site access. These include St Lawrence Primary School and Napton Pre-School, a Chapel, the Village Hall, a local shop and post office, a pub, a social club, a children's play area and sports facilities. There are three bus services available in the village including the two-hourly No 65 which runs between Leamington and Daventry on weekdays and Saturdays.

Context

Policy Context

9. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.
10. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of

the housing strategy over the plan period. Applications for housing should be considered in the context of the presumption in favour of sustainable development. 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 deliverable housing sites. The five-year supply of sites additionally requires a 5% buffer to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%.

11. Design is part of sustainable development and this includes taking into consideration the effect of development on open spaces. Development should contribute to protecting and enhancing the natural and built environment. As part of this, it should help to minimise pollution and mitigate/adapt to climate change including moving to a low carbon economy. The Framework also states that due weight should be given to relevant development plan policies that pre-date the Framework according to their consistency with it.
12. The Council's putative reason for refusal refers to conflict within the Framework in respect to bullet points 5 and 7 of paragraph 17, concerning the core planning principles, as well as paragraphs 109 and 113 regarding the conservation and enhancement of the natural environment.
13. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for this area is the Stratford-on-Avon Local Plan Review 1996-2011 which was adopted in 2006 (the Local Plan). The period for which the Local Plan sought to meet the District's development needs ended in 2011.
14. The Council's putative reason for refusal indicates that the appeal development would be contrary to Policies PR.1, DEV.1 and CTY.1 of the Local Plan; and these are the most pertinent Local Plan policies to the appeal proposals. Policy PR.1 indicates that all development proposals should respect, and where possible, enhance the quality and character of the area. It also states that the value attached to such features by local communities will be taken into account. Policy DEV.1 requires proposals to have regard to the character and quality of the local area through the layout and design of the new buildings. Policy CTY.1 indicates that, unless allowed for by other policies in the Local Plan, development will be generally resisted in the countryside to preserve its character and protect its resource.
15. The Stratford-on-Avon Submission Core Strategy 2014 (the Submission CS) was submitted to the Secretary of State on 30 September 2014. The Council's putative reason for refusal does not cite any conflict with the Submission CS. Although this document has been the subject of public consultation, the Statement of Common Ground (the SoCG) indicates that it will remain the subject of outstanding objections and that the policies contained within it are currently of limited weight in the determination of the appeal. Given its current status and with reference to paragraph 216 of the Framework I see no reason to disagree with the main parties on this matter.

Housing Need

16. The Submission CS has not yet reached an advanced stage, while some three years have passed since the end of the period for which the Local Plan sought to meet the District's development needs.

17. During the Inquiry my attention was drawn to a very recent appeal decision for residential development in Stratford on Avon District at land off Stratford Road, Hampton Lucy² (the Hampton Lucy appeal). Although the Inspector in that appeal adopted the full objectively assessed need proposed by the Council, overall she concluded that based on the evidence before her the Council could not demonstrate a five-year supply of housing land. As part of her assessment that Inspector concluded that a buffer of 20% rather than 5% should be applied in the District.
18. The Hampton Lucy Inspector also concluded that windfall sites should not be included within the housing land supply due to a lack of compelling evidence to support the 240 units put forward by the Council. Additionally, she was not satisfied that substantive evidence had been provided to support the Council's position regarding the inclusion and calculation of residential institution development (Use Class C2) in the housing land supply. In this regard the Inspector stated that "while I concur with both the Council and the appellants that housing provided for older people, including residential institutions in Use Class C2, should be counted against the housing requirement, the approach to be taken should be determined as part of the Local Plan process."
19. At the current appeal Inquiry, in light of the Hampton Lucy appeal decision, the Council accepted that, for the purposes of this appeal only, the evidential position has not changed from that of the Hampton Lucy appeal in a manner that would entitle the decision-taker to arrive at a substantively different conclusion in relation to the five-year housing land supply issue having regard to the contribution made by Use Class C2 yield and windfall sites³. The Council did, however, directly dispute the Hampton Lucy appeal Inspector's finding that a 20% rather than a 5% buffer should be applied. This was principally on the basis that the Council consider that the Inspector misinterpreted how the Council had performed in the past relative to the annual housing delivery targets of the West Midlands Regional Spatial Strategy. In contrast the appellants agree with the approach taken by that Inspector regarding the buffer.
20. During the Inquiry the Council produced a Note⁴ (the 540 Note) that sets out its position, for the purposes of this appeal, on five-year housing land supply to which it applies a 5% and a 20% buffer. The note uses 540 as the annual requirement for dwellings. This annualised figure is derived from the 10,800 dwellings over the period 2011-2031 proposed in the Submission CS. Based on the evidence before her, the Hampton Lucy appeal Inspector used this housing requirement as the full objectively assessed need (FOAN). At the appellants' request the Council also produced an equivalent note⁵ that uses 570 as the annual requirement (the 570 Note). The figure of 570 is derived from the Coventry and Warwickshire Joint Strategic Housing Market Assessment (the SHMA) November 2013 produced by G L Hearn⁶.
21. In the current appeal I have been presented with a wide range of potential FOAN based on numerous scenarios, which are summarised in Table 8 of

² APP/J3720/A/14/2215757 - the erection of 28 dwellings with associated access, landscaping and infrastructure at Land off Stratford Road, Hampton Lucy CV35 8BH, allowed on 3 November 2014.

³ Closing Submissions on behalf of the Council, paragraph 15

⁴ Document 9 – Note on 5 Year Supply with 5% or 20% Buffer (using 540 dwellings pa)

⁵ Document 12 – Note on 5 Year Supply with 5% or 20% Buffer (using 570 dwellings pa)

⁶ Core Document 29

Mr Bateman's evidence⁷. The range extends from the Council's figure of 10,800 up to 20,342 over the 20 year period. This upper figure is preferred by the appellants. It is derived from the Chelmer Model run by the Pegasus Group on their behalf and takes account of economic considerations based on a forecast by Cambridge Econometrics.

22. Among the other suggested FOAN before me is that derived from the SHMA. Table 97 of the SHMA identifies the overall assessed need for housing per annum in the SHMA area as 3,800 and breaks this down across the six districts concerned. The figure for Stratford on Avon is 570, which equates to 11,400 over the period 2011-31. G L Hearn produced an update⁸ (the Update) to the SHMA in September 2014, which identifies an overall assessed need for housing per annum in the SHMA area of 4,004. However, the Update to the SHMA does not provide a breakdown for each local authority. Consequently, it is of limited use in the context of this appeal, particularly bearing in mind that the respective local authorities had not yet fully assessed the 4,004 figure and how it might be distributed between them. Nonetheless, it does indicate the likely increase in FOAN, thus adding weight to the appellants' case.
23. Paragraph 159 of the Framework states that local planning authorities should prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. With this in mind, I consider that the SHMA figure of 11,400 over 20 years or 570 per annum can be regarded as a reasonable assessment of FOAN until the various candidates have been fully tested through the Core Strategy examination process.
24. In the context of this appeal the question of which FOAN and which buffer should be applied is somewhat academic because the Council has accepted that it cannot demonstrate a Framework compliant supply of housing land. There is nothing in the Framework that expressly indicates that the bigger the shortfall, the bigger the presumption in favour of sustainable development. It is useful, nonetheless, to explore these matters in order to get a reasonable sense of the extent of the housing shortfall if only to gain an understanding of its scale relative to the development proposed.
25. The 540 Note and the 570 Note provide a helpful summary in this regard. Given that the Council did not submit any different information compared to the Hampton Lucy appeal it is reasonable to use the supply total from the third column of the tables in both of these Notes as they are the same figures used by that Inspector. This gives a total supply for the five-year period of 3,350 dwellings.
26. The Council's preferred scenario is an annual requirement of 540 dwellings using a 5% buffer. However, for the reasons outlined above I favour the annual requirement of 570 dwellings derived from the SHMA. The 570 Note applies this housing requirement and shows the total requirement over the five-year period as being 3,795. When the Council's preferred buffer of 5% is applied the requirement becomes 3,985 (3,795 + 190). This equates to a 4.2 year supply of housing land or an undersupply of 635 homes.

⁷ Row labelled 'Requirement 2011 to 2031' in Table 8 on page 69 of Mr Bateman's Proof of Evidence

⁸ Core Document 60 – 2012-based Sub-National Population Projections & Economic Forecasts: Implications for Housing Need in Coventry & Warwickshire

27. When applying the Council's preferred scenario of 540 dwellings per annum with a 5% buffer, the total requirement over the five-year period is 3,733 (3,555 + 178), amounting to a 4.48 year supply; a shortfall of 383 dwellings over the five years. Therefore, even in the Council's best-case scenario the shortfall is significant and substantially exceeds the 28 dwellings proposed. Given the scale of the shortfall in any of the scenarios before me I have not found it necessary to conclude on whether a buffer of 5% or 20% should be applied.
28. The SoCG indicates that there is a significant shortfall in affordable housing provision in the District. This is consistent with what I have found from the wider evidence.
29. Therefore, although it is for only 28 dwellings, the proposed development would make a valuable contribution to identified housing need. For the reasons outlined, I find that the need for both market and affordable housing carries weight in favour of the proposal.

Landscape and Visual Impact

30. The Council is concerned that the appeal development would harm the landscape character and visual amenity of the area. The appeal site is formed from roughly the lower half of a field used for glazing. Other than the rising topography and power lines that cross it, the field has no significant features. Nonetheless, attractive hedgerows line much of the site's boundary, particularly to Fell's Lane and Godsons Lane, albeit that these hedges are somewhat neglected and may benefit from greater management.
31. The site currently has no specific landscape designation or protection in adopted planning policy terms. Nonetheless, it is clear from the evidence and from my own observations when visiting that area that the appeal site contributes positively to the local landscape as well as to the setting of the Napton-on-the-Hill village.
32. The site forms part of a larger 'candidate' Special Landscape Area (SLA) proposed in the Submission CS. However, I can give little weight to this as it has yet to be examined. I have also found nothing within the evidence that leads me to believe that the proposed SLA would be prevented or compromised if planning permission was to be granted for the appeal development.
33. The site also occupies part of an area which is characterised as Lias Village Farmlands in the Warwickshire Landscape Guidelines⁹. This document identifies that field pattern is the dominant visual element in this landscape and that the landscape strategy is to conserve the historic pattern of larger hedged fields, with priority given to strengthening and restoring primary hedges lines and to enhance field patterns through more appropriate hedgerow management.
34. I agree with both main parties that the site's landscape value and character are high. In particular, the site is unusual in that it forms part of the rural landscape that extends into the centre of the village. It is also reasonably prominent as it forms part of the hill on which Napton is located, such that it can be seen from a number of viewpoints within the lower lying land to south. It is also readily overlooked from higher ground within the village, most notably

⁹ Core Document 34

from Vicarage Road. Additionally, it can be viewed and experienced from the public footpath that crosses through the centre of the site. Consequently, the site is also visually important. The view from Vicarage Road towards Priors Marston, which includes the site, is identified in the Napton-on-the-Hill Village Plan¹⁰ as being one that villagers are proud and protective of. In short the appeal site is part of an attractive landscape at the edge of Napton-on-the-Hill, offering visual benefits, particularly to local residents.

35. The proposal would keep the northern half of the field, which currently extends the countryside into the heart of the village, free of development. The position of the proposed development on the lower contours of the field combined with the limited height of the development and associated planting would be such that the important view from Vicarage Road towards Priors Marston would not be obscured. The layout and overall design of the development also appear to have been carefully considered, including the corridor of open space that would provide a pleasant spacious setting for the public footpath. Importantly, this area of proposed open space would also retain a physical and visual link to the open countryside to the south.
36. The appellants have produced a detailed Landscape and Visual Impact Assessment (LVIA) of the proposal¹¹ as well as a set of photomontages of the appeal development¹². The Council has not produced its own LVIA or photomontages but it has made a detailed assessment. While the Council's evidence comes to different conclusions regarding the effect of the development in landscape and visual impact terms, I have found nothing that directly challenges the methodology of the LVIA or the accuracy of the photomontages. Indeed during the Inquiry it was clear that there was a reasonable amount of common ground between the appellants' and the Council's landscape and visual impact witnesses. I focus, therefore, on the principal matters on which the parties differ.
37. In terms of more distant views from the village, the appeal site can be seen from a number of publicly accessible locations. The proposed development would be seen largely against the backdrop of the rising land. Within the context of the greater village, the development would be perceived as a small continuation of the settlement's built form and the remaining undeveloped higher portion of the field would still be apparent. By grouping the proposed housing along the lower sections of the rising land, the development would read as a continuation of the existing housing to the west in St Lawrence Close and Godsons Lane. Consequently, its effect on the character and appearance of the village would be reasonably limited when perceived from some distance away such that its effect on landscape character and visual amenity would be limited in this respect. However, the greater area of disagreement between the main parties is in respect to the impact closer in to the site.
38. The introduction of development to any undeveloped site would be very likely to alter its character. Nonetheless, this is an important site, principally because it extends the rural character of the surrounding countryside into the village without interruption and in doing so it affords attractive views into and out of the village, due in part to the local topography. To a large extent, therefore, its value stems from the fact that it is open and undeveloped.

¹⁰ Core Document 39

¹¹ Core Document 7

¹² Appendix 2 to Dorian Randall's Proof of Evidence

Consequently, through the introduction of development, particularly of the scale and extent now proposed, the site's visual value, landscape character and contribution to the setting of the village would be significantly eroded. This impact would be especially marked when viewed from Vicarage Road, as although the development would not obstruct the view across the landscape to Priors Marston, nonetheless its presence and influence on the landscape and visual character of the area would be apparent.

39. Nearby views into the site from the south, such as from Fell's Lane, are somewhat glimpsed due mainly to intervening mature planting, particularly hedgerows. Notwithstanding this planting, when moving around the lanes, rights of way and areas of public open space in this area it is clear that the site forms part of an undeveloped field which extends into the village. This becomes even more apparent when using the footpath that crosses the site. Consequently, the presences of the development and its influence on the landscape and visual character of the area would be apparent from the area to the south of the site as well as from within it.
40. The Council's landscape and visual impact witness's evidence challenges the LVIA in terms of it understating the development's landscape impact, particularly as it recognises the importance of the site to providing a link with the open countryside. When determining the significance of landscape impacts at a localised level, the Council's witness judges that there would be a major alteration to the key characteristics of the landscape area and that, therefore, the landscape effect would be major adverse and consequently harmful. The appellants' witness predicts that the development would have a moderate adverse effect on the landscape.
41. I consider that the proposed development represents a thoughtful response to the local circumstances, notably in respect to the siting of the houses relative to the site's contours, the general alignment of the roof-scape, the width and positioning of the open space and the height of the buildings. It would, nonetheless, significantly change the important open nature of the site as a characteristic of the area. Consequently, I broadly agree with the Council's witness in regard to the development's landscape impact particularly in terms of the impact on the Local Character Areas of the LVIA.
42. The witnesses also differ regarding the visual impact of the development. For photomontage viewpoints 2 (field gateway, Dog Lane) and 3 (footpath SM42c, Shuckburgh Road) the appellants' witness identifies a residual moderate / minor adverse and minor adverse visual impact respectively. For the reasons outlined above and given the distance from the site, I broadly agree with these assessments. I also consider that they are broadly representative of the visual impact from the other medium to distant viewpoints from which I viewed the site during my site visit. For photomontage viewpoint 1 (Vicarage Road) the appellants' witness identifies a residual moderate adverse impact. However, for the reasons outlined above, I consider that this understates the impact of the development when viewed from Vicarage Road and from the other closer-to viewpoints from which I viewed the site, such that there would be a moderate to major adverse residual impact.
43. During the course of the Inquiry the appellants and the Council jointly produced and submitted a Hedgerow Management Plan¹³, which sets out how

¹³ Document 11

the existing boundary hedgerows could be maintained, improved and managed. The measures identified could be secured by planning condition in the event that planning permission was to be granted. The contribution that such measures would make to the Lias Village Farmlands landscape character and visual amenity of the area would be positive and weigh in favour of the proposals. However, they would not mitigate or outweigh the harm I have identified.

44. Overall, therefore, in terms of landscape character and visual impact the proposed development would have a harmful effect. Consequently, in this regard, it would conflict with Policies CTY.1, DEV.1 and PR.1 of the Local Plan and with bullet points 5 and 7 of paragraph 17, and paragraphs 109 and 113 of the Framework. Accordingly, this matter weighs against the proposal.

Housing Land Supply Policy and Planning Balance

45. In undertaking the planning balance I have considered the weight to be given to the relevant development plan policies and made an assessment of whether the proposals would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a demonstrable five-year housing land supply and the contents of the Framework as a whole.
46. Subject to certain exceptions Local Plan Policy CTY.1 resists any development in the countryside, other than that which accords with provisions elsewhere in the Local Plan, in order to preserve its character and to ensure that resources are protected. The supporting text to the Policy states that it is based on the presumption that Government policy requires that the countryside should be protected for its own sake. Since the Local Plan was adopted national planning policy has evolved and this presumption has not been carried forward into the Framework. Therefore, Policy CTY.1 is inconsistent with the Framework in this regard. Furthermore, as it seeks to restrict all forms of development in the countryside, including housing, it is a policy that is relevant to the supply of housing in the terms of paragraph 49 of the Framework. For these reasons, therefore, in the absence of a Framework compliant supply of housing land, Policy CTY.1 should be regarded as being out of date and carries limited weight in the context of this appeal.
47. Local Plan Policy PR.1 states that proposals that would damage or destroy features that contribute to the distinctiveness of the local area will not be permitted unless significant public benefit would arise from the scheme and as such is consistent with the balance approach in paragraph 14 of the Framework. Consequently, Policy PR.1 is broadly in line with the Framework. Like Policy PR.1, the commitment to good design carried by Local Plan Policy DEV.1 is also constant with the Framework. However, unlike Policy PR.1, it does not include a 'public benefit' justification such that there is a tension with the Framework. Consequently, it carries less weight than Policy PR.1.
48. In terms of the economic and social dimensions of sustainable development, the appeal proposal would be deliverable and increase the supply and choice of housing, including eleven affordable homes, in an area where there is not a Framework compliant supply of housing land. The development would also contribute towards economic growth during the construction phase in terms of employment and possibly an increase in local spending. The evidence indicates that in the longer term, the additional population would increase the potential

for spending, for instance in local shops, and help support the sustainability of the local nursery and primary school. The SoCG states that Napton-on-the-Hill is a sustainable location for new development of an appropriate scale as it provides a range of local services within walking distance of the site. I agree. These matters together carry very considerable weight in favour of the proposals.

49. In terms of the environmental dimension, through the careful consideration of matters of detail that could be controlled by conditions, such as facing materials and boundary treatment, a high quality environment within the site could be achieved. This would incorporate an attractive corridor of public open space that would provide a visual and physical link between the village and open countryside. The development would also improve drainage and flood mitigation at the junction of Dog Lane and Godsons Lane. The proposals also offer the potential for improved hedgerow management.
50. Although, as identified, the development would cause some harm to the landscape character and visual amenity of the area, this harm is outweighed by the matters outlined above such that overall the appeal proposals would represent sustainable development in the terms of the Framework.

Other Matters

51. The Council has submitted a detailed Statement (the S106 Statement), which addresses the application of statutory requirements to the planning obligations within the S106 Agreement supporting the need for the on-site provision of eleven affordable housing units and open space, and contributions for library facilities, public rights of way, sustainability packs, children's play provision, youth and adult provision, and education. I have considered these in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations.
52. The eleven affordable homes equates to 35% of the development based on total residential floor area. This is in line with Local Plan Policies COM.13 and COM.14 and the Council's Meeting Housing Needs Supplementary Planning Document (SPD) July 2008 as well as the objectives of paragraph 50 of the Framework.
53. Policy IMP.4 of the Local Plan also says that planning permission will only be granted where proper arrangements have been put in place to secure the provision of the full range of physical and social infrastructure necessary to serve and support the development proposed. It goes on to say that planning obligations will be sought through negotiation with developers where these would secure provision, either on or off site, of the necessary physical and/or social infrastructure. Policy DEV.6 also makes similar provisions. Local Plan Policies COM.4 and COM.5 and the Council's Provision of Open Space SPD March 2005 set out the standards and methodology for calculating open space provision with new development. Local Plan Policy IMP.5 indicates that contributions will be sought towards transport-related facilities required as a result of a development.
54. From the evidence I find that the obligations in respect to affordable housing; on and off site open space; footpath, library and secondary/sixth-form education services and facilities; and householder travel packs are all

legitimately required by Local Plan Policies DEV.6, COM.4, COM.5, COM.13, COM.14, IMP.4 and IMP.5, the Council's SPDs on Meeting Housing Needs and the Provision of Open Space and the aims and objectives of the Framework. I am satisfied that these are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

55. The S106 Agreement would also secure the provision, maintenance and transfer of a sustainable urban drainage scheme (SUDS), which in essence would be the surface water management measures, including a dry basin feature, set out in the appellants' Flood Risk Assessment¹⁴ (FRA). During the Inquiry the appellants' questioned the need for this matter to be addressed via the S106 Agreement. From the evidence, including the contents of the FRA and the consultation response of the Environment Agency¹⁵, it is clear that the SUDS is necessary in order to manage surface water drainage associated with the development. Local Plan Policies DEV.7 and PR.7 require appropriate surface water management and flood mitigation to be provided with new development. In order to ensure that the SUDS functions effectively in the long term, it is necessary to put in place measures to ensure that it is adequately maintained. For these reasons the SUDS obligation of the S106 Agreement would be directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
56. In its response to the consultation on the planning application the South Warwickshire NHS Foundation Trust¹⁶ sought a contribution toward the provision of healthcare facilities. However, the S106 Statement indicates that the Trust is no longer pursuing this matter and from the evidence it is not clear how such a contribution would comply with the requirements of Regulation 122. Consequently, I have given this matter no weight.
57. In addition to the foregoing matters, concern has been expressed locally in respect to conflict with the Parish Plan; an unacceptable increase in the size of the village; the adequacy of local infrastructure, services and facilities; loss of a field that is of value to the community for walking and sleighing; light pollution; highway safety, including during construction; drainage/flooding; density and design; biodiversity/ecology; and the creation of a precedent, including for the potential development of the northern portion of the field. These matters are identified and considered in reasonable detail within the Council Officer's Delegated Report and the Council has concluded that they would not amount to reasons to justify withholding planning permission. Subject to the provisions of the S106 Agreement and the imposition of planning conditions, I see no compelling reasons to disagree.
58. Concern has also been raised locally regarding the accuracy of a photomontage, the potential sterilisation of the remaining portion of the field for agricultural purposes, damage to private property caused by vehicle movements and that the proposals are developer rather than community led.
59. Regarding the photomontage, during the Inquiry the appellants advised that the image in question was taken from A C Lloyds's website and does not form part of the material submitted as part of the planning application or the appeal.

¹⁴ Core Document 12 – Flood Risk Assessment – Land at Godsons Lane Revision A, November 2013

¹⁵ Core Document 50

¹⁶ Core Document 51

I have found nothing in the evidence or from when observing the site from the relevant viewpoints that leads me to disagree.

60. The portion of the field within which the appeal site is located that would remain undeveloped would be reasonably large. It would also have vehicular access from the site and from the existing field gate from Vicarage Road. From the evidence there is no compelling reason to believe that it could not continue to be used for agricultural purposes.
61. I have not been provided with any clear evidence that traffic associated with the development would affect private property in the village. Although the proposals are developer-led, from the evidence it appears that the appellants have gone to reasonable lengths to engage with the local community regarding their proposals, and I note that this has resulted in a considerable amount of representations in objection to and in support of the scheme. Consequently, these matters would not justify withholding planning permission.
62. In addition to the cases identified above, my attention has been drawn to other proposals and development, including other appeal decisions. However, each scheme falls to be assessed on its own merits and, in any event, I am unaware of the full circumstances associated with any such other case.
63. The consultation responses of the Warwickshire County Council Rights of Way service and the Warwickshire Area Ramblers' Association indicate¹⁷ that the alignment of the footpath shown as part of the proposed layout does not follow the line of the recorded right of way, Ref SM42c. Both main parties indicate¹⁸ that there is no requirement for a diversion order to be obtained to enable the proposed development to be implemented as the route of SM42c is wholly within the proposed public open space. I have found no reason to disagree.

Conditions and Conclusion

64. The Council and the appellants submitted a list of draft conditions at the Inquiry.¹⁹ In addition to the standard time limit condition the list includes 25 conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary.
65. Conditions requiring the submission and approval of sample materials to be used in the construction of the external surfaces of the dwellings, soft and hard landscaping details and a scheme for the protection of trees/hedges, along with their implementation, would be necessary to safeguard the character and appearance of the area. However, to avoid unnecessary duplication the hard landscaping condition would need to be amended to omit the requirements regarding lighting and levels as these would be addressed by other suggested conditions. The wording of the tree protection condition would also benefit from amendment to make it clear that it also applies to hedgerows.
66. With reference to the Council's environmental health service's consultation response to the planning application, a condition requiring that a site

¹⁷ Core Documents 51 & 52 respectively

¹⁸ Document 13 - paragraph 2.2

¹⁹ Document 14

investigation of the nature and extent of contamination affecting the site, along with any necessary remediation, would be reasonable to safeguard the health of future occupiers. A condition requiring the laying out and substantial construction of the roads serving the development prior to its occupation would be also necessary in the interests of highway safety.

67. A requirement that the development be carried out in accordance with the principles set out in the FRA, and the submission and approval of a scheme for the disposal of sewerage, would safeguard the development from the risk of flooding and protect the environment. A condition along the lines of the requested FRA/ surface water drainage condition would render suggested Condition 8 unnecessary.
68. Conditions to secure the implementation of an Ecological Management Plan and a Protected Species Method Statement, as well as the completion of a reptile survey and the implementation of any pursuant mitigation would be necessary to safeguard protected species and in the interests of biodiversity. Nonetheless, the wording of the Ecological Management Plan would need to be amended to omit reference to landscape management in order to avoid unnecessary duplication with hard and soft landscaping conditions.
69. A condition requiring the submission and approval of detailed plans and sections showing existing and proposed site levels, along with proposed finished floor levels, would be necessary to safeguard the character and appearance of the area. The submission and approval of a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes at the site would be necessary in the interests of the safety of future occupiers bearing in mind the consultation response of the County Council's Fire and Rescue Service.
70. A requirement that a Management and Maintenance Plan for the site is submitted and approved would be necessary to safeguard the character and appearance of the area, in the interests of highway safety and to ensure satisfactory living conditions for future occupiers. The matters raised in the Hedgerow Management Plan²⁰ could be satisfactorily addressed via the combined provisions of the Management and Maintenance Plan and soft landscaping conditions. The submission and approval of a Construction Method and Transport Management Statement would also be necessary to safeguard the living conditions of local residents and in the interests of highway safety.
71. In accordance with the Council's Meeting Housing Needs SPD conditions requiring that all new dwellings shall achieve a minimum rating of Level 3 Code for Sustainable Homes and that a minimum of 50% of all new dwellings shall be designed and built to meet the Joseph Rowntree Foundation's 'Lifetime Homes' standards would be necessary in the interests of providing a sustainable development.
72. A condition which requires the submission and approval of a scheme for the provision of energy from on site renewable sources and/or a 'fabric first' design sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development would be necessary to safeguard the environment. The provision of a water butt, for each dwelling that has a downpipe, and three bins for the purposes of refuse,

²⁰ Document 11

recycling and green waste, for each dwelling, would also be necessary to safeguard the environment and in the interests of sustainability in accordance with the Council's Sustainable Low-carbon Buildings SPD.

73. Details of all external light fittings and external light columns including their predicted luminance levels would be necessary to safeguard the living conditions of local residents and to prevent light pollution bearing in mind the site's sensitive edge of village location. With reference to the comments of the County Archaeology service, a condition would be necessary to ensure that features of archaeological interest are properly examined/recorded.
74. In summary, notwithstanding the policy conflict and its effect on the landscape character and visual amenity of the area, given the absence of a five-year housing land supply and the status of relevant policies of the development plan for the supply of housing, I find that the appeal proposals would be sustainable development. I conclude, therefore, that the appeal should be allowed subject to the identified conditions.

G D Jones

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian, of Counsel	Instructed by the Head of Planning, Stratford on Avon Council
He called	
Jeremy Sacha CMLI	Sacha Barnes Ltd
Ian Gilder MA DipTP	Environmental Resources Management Ltd
MRTPI FRSA	
Philippa Jarvis BSc(Hons)	PJPC Ltd (Planning Consultancy)
DipTP MRTPI	

FOR THE APPELLANT:

Jeremy Cahill, of Queen's Counsel	Instructed by Delta Planning
He called	
Dorian J C Randall BA(Hons)	Barry Chinn Associates Ltd
DipLA CMLI	
Anthony C Bateman	Pegasus Group
BA(Hons) TP MRICS MRTPI	
MCMI MIOd FRSA	
David Green BSc(Hons)	Delta Planning
MRICS MRTPI	

INTERESTED PERSONS:

Mrs Kim Sneddon	Local Resident
Mrs Linda Gooderham	Napton-on-the-Hill Parish Council
Mr Jim Sleight	Local Resident
Mr Graham Smith	Local Resident
Mr David Tayler	Local Resident
Mrs Barbara Watson	Local Resident
Mrs Hillary Preen	Local Resident
Mr Peter Gladwin	Local Resident
Mrs Lesley Hind	Local Resident
Mr Gordon Clarke	Local Resident
Mr Tony Horton	Stratford on Avon District Council (Conditions/Section 106 Session only)

DOCUMENTS submitted at the Inquiry

- Appeal Decision Ref APP/J3720/A/14/2215757 - the erection of 28 dwellings with associated access, landscaping and infrastructure at Land off Stratford Road, Hampton Lucy CV35 8BH, allowed on 3 November 2014
 - Cost Decision in relation to Appeal Ref APP/J3720/A/14/2215757, made on 3 November 2014
- Map showing the area of the Candidate Special Landscape Area within which the appeal site is located
- Drawing No 2951-24 – Existing Site Plan

- 4 Deed of Agreement made under Section 106 of the Town and Country Planning Act 1990 dated 4 November 2014
- 5 Copy of Land Registry Register of Title No WK409180 and Plan
- 6 Map showing the Warwick and Stratford-upon-Avon Travel to Work Area dated 20 October 2014
- 7 Report on the Examination into the North Warwickshire Local Plan: Core Strategy, Ref: PINS/R3705/429/4, dated 24 September 2014
- 8 Planning Advisory Service, Objectively Assessed Need and Housing Targets, Technical Advice Note, June 2014
- 9 Note on 5 Year Supply With 5% or 20% Buffer with supply based on Emerging Core Strategy Figure (540dpa)
- 10 Note on Table 2 – Delivery Against West Midlands RSS Housing Requirement of Appendix 1 to the Council's Policy Advice Note August 2014 (CD59)
- 11 Draft Hedgerow Management Plan – Interim Statement produced by Mr Sacha and Mr Randall, November 2014
- 12 Note on 5 Year Supply With 5% or 20% Buffer with supply based on SHMA Figure from Table 97 (570dpa)
- 13 Addendum to Statement of Common Ground, dated 6 November 2014
- 14 Updated Schedule of Suggested Conditions
- 15 Note on Conditions from Napton-on-the-Hill Parish Council to the Council and the Appellants
- 16 South Northamptonshire Council v Secretary of State for Communities and Local Government & Barwood Land and Estates Limited [2014] EWHC 573 (Admin) CO/12394/2013

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SCHEDULE OF CONDITIONS FOR APPEAL REF APP/J3720/A/14/2217115:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 2951-23; Drawing No 1352-13-02I; Drawing No 2951-21D; Drawing No 2951-22 G; Drawing No 2951-51B; Drawing No 2951-64B; Drawing No 2951-60B; Drawing No 2951-59B; Drawing No 2951-52B; Drawing No 2951-53B; Drawing No 2951-55B; Drawing No 2951-62B; Drawing No 2951-63B; Drawing No 2951-65B; Drawing No 2951-56B; Drawing No 2951-57B; Drawing No 2951-58B; Drawing No 2951-66B; Drawing No 2951-70B; Drawing No 2951-71B; Drawing No 2951-69B; Drawing No 2951-68B; Drawing No 2951-67B; Drawing No 2951-72; Drawing No 2951-73; Drawing No 2951-74; 1352-13-04F.
- 3) Prior to the above ground construction of any of the buildings hereby permitted, sample materials to be used in the construction of the external surfaces of the buildings and a schedule detailing where the materials are to be used on a plot by plot basis shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) Notwithstanding the soft landscaping details that have been submitted with the planning application, no works or development, including site clearance, shall take place until full details of a soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority (LPA). The details shall include:
 - a) Planting plans
 - b) Written specifications
 - c) A schedule of plants noting species, plant sizes and proposed numbers
 - d) Details of existing landscape features such as trees and hedges to be retained.
 - e) Details of existing landscape features such as trees and hedges to be removed.
 - f) A timetable of implementation.
 - g) Details of planting alongside public footpath SM42c, demonstrating that future growth shall not encroach onto the public right of way
 - h) Measures to protect new planting from livestock and rabbits

The approved soft landscaping scheme shall thereafter be carried out and completed in accordance with the approved details and timetable. If within a period of five years from the date of the soft planting pursuant to this condition any of the soft planting is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, it shall be replaced by planting as originally approved, unless the LPA gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

- 5) Prior to the commencement of the development hereby permitted, details of hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. Hard landscape details shall include:
- a) The means of accommodating change in level, for example through steps, retaining walls and ramps
 - b) The type, design, colour, bonding pattern, samples and manufacturer of any hard surfacing materials
 - c) The position and design of all site enclosures and boundary details
 - d) Other vehicular and pedestrian areas
 - e) Minor artefacts and structures including, for example, street furniture, refuse areas and signage.

The approved scheme shall be carried out concurrently with the development and completed prior to its first occupation.

- 6) No development shall take place until an investigation of the nature and extent of any contamination affecting the site has been carried out by a suitably qualified person, in accordance with a methodology based on a Phase I assessment and conceptual site model for the site, in accordance with BS10175:2011. The site investigation methodology, its results and the recommended remediation plan shall be submitted to and approved in writing by the Local Planning Authority (LPA) before any development begins. If, during the site investigation, any unacceptable contamination is found a further report specifying the measures to be taken to remediate the site shall be submitted to and approved in writing by the LPA. The site shall be remediated in accordance with the approved measures before the development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for its remediation shall be submitted to and approved in writing to the LPA. The remediation of the site shall incorporate the approved additional measures.

The development hereby permitted shall not be brought into or continue in use unless and until any remediation measures have been carried out and a Validation or Post-remediation Report has been submitted to and approved in writing by the LPA.

- 7) The development hereby permitted shall not be occupied until the roads servicing the development have been laid out and constructed.
- 8) No site clearance or building operations of any type shall commence or equipment, machinery or materials be brought onto the site until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority (LPA). The scheme shall include:
- a) The submission of a Tree and Hedgerow Protection Plan and appropriate working methods; and
 - b) Details of the provision of protective fencing around any retained trees and hedgerows within the site and around those trees outside the site whose Root Protection Areas (as defined in British Standard BS 5837 (2012)) fall within the site.

The erection of fencing for the protection of any retained tree or hedgerow shall be undertaken in accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery

and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, nor anything be attached to or supported by a retained tree or hedgerow and no fires shall be lit within 10 metres of the nearest point of the canopy of the retained trees and hedgerows within or adjacent to the site, without the written approval of the LPA.

- 9) No part of the development hereby permitted shall commence until a scheme for the disposal of sewerage has been submitted to and approved in writing by the Local Planning Authority and thereafter no part of the development shall be first occupied until the approved scheme has been carried out.
- 10) No development shall take place until a scheme for the proposed surface water drainage of the site based on the sustainable drainage principles set out in the approved 'Amended Flood Risk Assessment – Land at Godsons Lane Revision A' November 2013 and drawing NAP-2A October 2013 have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first occupied until the approved scheme has been fully implemented.
- 11) No works or development shall commence on site, including site clearance, until an Ecological Management Plan, including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all aspects of habitat management and creation, including the area of semi-improved grassland, hedgerows, and attenuation basin and erection of bat and bird boxes. The approved scheme shall be fully implemented in accordance with the approved timetable.
- 12) The development hereby permitted shall not commence nor shall any site clearance or other works take place until a Protected Species Method Statement, including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall thereafter be fully implemented in accordance with the approved timetable.
- 13) The development hereby permitted shall not commence nor shall any site clearance or other works take place until a Reptile Survey has been carried out at the appropriate time of year and during appropriate weather conditions, by a suitably qualified ecologist. The results of the Survey shall be assessed by a qualified ecologist and if mitigation measures are deemed necessary such proposed mitigation measures and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to any site clearance works or commencement of development. Any approved mitigation measures shall be fully implemented in accordance with the approved timetable.
- 14) No part of the development hereby permitted shall be commenced until detailed plans and sections showing existing site levels, proposed site levels and proposed finished floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.
- 15) No part of the development hereby permitted shall commence until a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes at the site has been submitted to and approved in writing by the

Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

- 16) The development hereby permitted shall not be occupied until a Management and Maintenance Plan for the site, detailing who is responsible for managing and maintaining the roads, parking areas, incidental landscaping, boundary hedgerows, garden areas, public open space and any other land shown within the application site, has been submitted to and approved in writing by the Local Planning Authority. The management and maintenance of the site shall thereafter be carried out in accordance with the approved Plan.
- 17) No development shall take place, or any works of site clearance, until a Construction Method and Transport Management Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the site clearance and construction period. The Statement shall provide for:
 - a) A scheme for the routing of construction vehicles that are under the developer's control
 - b) The hours of construction work and deliveries
 - c) The parking of vehicles of site operatives and visitors
 - d) Loading and unloading of plant and materials
 - e) Storage of plant and materials used in constructing the development
 - f) The erection and maintenance of security boarding.
 - g) Wheel washing facilities and road cleaning arrangements
 - h) Measures to control emission of dust and dirt
 - i) A scheme for the storage, recycling and/or disposing of waste resulting from site clearance or re-grading and construction works.
 - j) Location of temporary buildings and associated generators and compounds.
- 18) All new dwellings shall achieve a minimum rating of Level 3 Code for Sustainable Homes. A final Code Certificate shall be issued and submitted to the Local Planning Authority certifying that a minimum of Code Level 3 has been achieved for all dwellings prior to the occupation of the final dwelling.
- 19) No part of the development hereby permitted shall commence until a scheme for the provision of energy from on-site renewable sources and/or a 'fabric first' design sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development above that of current Building Regulations at the time of commencement has been submitted to and approved in writing by the Local Planning Authority (LPA). The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the first occupation of the development or alternatively in accordance with a phasing scheme which has been agreed in writing by the LPA, and shall thereafter be retained in place and in working order at all time.
- 20) A minimum of 50% of all new dwellings shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards.
- 21) No house that has a downpipe within the development hereby permitted shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.

- 22) Each dwelling hereby permitted shall not be occupied until 3 bins for the purposes of refuse, recycling and green waste have been provided in accordance with the Council's bin specifications.
- 23) Prior to their installation, details of all external light fittings and external light columns, including isolux diagrams demonstrating predicted luminance levels within and adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 24) No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

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