



Appeal Decision

Hearing held on 5 October 2022

Site visits made on 5 and 7 October 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/W3710/W/22/3301839

Site 46a010, Rear of 89-169 Tunnel Road, Galley Common, Nuneaton, Warwickshire

- 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 outline planning permission
- The appeal is made by A R Cartwright Limited against Nuneaton and Bedworth Borough Council.
- The application Ref 037294 is dated 17 July 2020.
- The development proposed was originally described as 'up to 70 dwellings with all matters reserved except for access.'

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The application was made in outline with only the matter of access to be considered in detail at this stage. I have determined the appeal on that basis and whilst I have had regard to the submitted layout plan and site cross sections, I recognise these are for illustrative purposes only.
3. A signed unilateral undertaking has been submitted by the appellant. I shall return to this later in my decision.

Main Issues

4. The main issues in this case are:
 - Whether the proposal would represent a suitable location for housing, having regard to relevant local and national planning policy;
 - Whether the Council can demonstrate a five year supply of deliverable housing sites;
 - The effect of the proposal on the landscape character and appearance of the area, having regard in particular to the effect on non-designated heritage assets;
 - The effect of the proposal on highway safety, with reference in particular to:
 - i. The capacity of the road network, and
 - ii. The safety of the site access and parking arrangements.

Reasons

Site and Policy Context

5. The appeal relates to a site of some 3.6 hectares located to the rear of dwellings on Tunnel Road in the settlement of Galley Common, a suburb to the west of Nuneaton. The site comprises four individual fields of grazing land enclosed and separated by hedgerows and presently used as paddocks, with several small structures to the eastern side of the site. A public footpath runs from Tunnel Road through the centre of the site.
6. The proposal is for development of up to 70 dwellings, with access to be taken between the dwellings at 147 and 155 Tunnel Road. For the avoidance of doubt, it was clarified at the hearing that No 147 would not be demolished as part of the proposal.
7. The development plan for the area is the Nuneaton & Bedworth Borough Council Borough Plan 2011-2031 (June 2019) (the NBBP).
8. The site has been the subject of appeal decisions in 2013¹ and 2017², to which I have had regard as material planning considerations.

Location for housing

9. It is common ground between the main parties that the site lies outside of the settlement boundary of Galley Common and within the open countryside for planning purposes.
10. Policy DS3 of the NBBP sets out that new unallocated development outside the settlement boundaries is limited to agriculture, forestry, leisure and other uses that can be demonstrated to require a location outside of the settlement boundaries. The proposal for market-led housing does not fall into any of these categories, and there would be conflict with Policy DS3 in this respect.

Housing land supply

11. The National Planning Policy Framework (the Framework) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. Consequently, the Framework sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement.
12. The Council's position at appeal was that it can demonstrate a deliverable supply of 6,819 dwellings, or 5.67 years. The appellant employed two alternative approaches to calculating deliverability with supply put at either 4.68 years or 4.94 years. At the hearing, the appellant confirmed that they sought to rely upon the lower figure of 4.68 years.
13. Annex 2 of the Framework sets out that to be deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Where a site has outline planning permission for major

¹ APP/W3710/A/13/2195900, dismissed 22 November 2013

² APP/W3710/W/16/3156950, allowed 20 January 2017

development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

14. For the purposes of the appeal, the parties agree that the five year period runs from 1 April 2022 to 31 March 2027 and the required level of supply over this period is 6,012 units, inclusive of past shortfalls and applying a 20% buffer. The parties also agree on the deliverability of 2,282 dwellings³, with the dispute being solely in respect of several allocated sites within the development plan.
15. Of the disputed sites identified, it was confirmed at the hearing that the appellant was not challenging the deliverability of sites at School Lane (HSG6), West of Bulkington (HSG8), Former Hawksbury Golf Course (HSG12) and Wilsons Lane (EMP2). Cumulatively, these sites add 1,082 dwellings to the supply. In addition, there is no challenge to the deliverability of 1,545 units at Land North of Nuneaton (HSG1). This results in agreement on a total of 4,909 units and leaves eight sites in dispute.
16. In each case, the appellant has based its estimates on the time taken by the Council to deal with recent large scale applications. A general timescale of four years from the making of an outline application to the start of works on site has been adopted. This is a somewhat broad-brush approach, and in general, I am not inclined to accept it as a sure means of determining deliverability of a site. However, I acknowledge that the appellant's evidence indicates a pattern of long timescales for developments to move through the planning system in Nuneaton & Bedworth, and I have taken this into account in reaching conclusions on individual sites. I have also had regard to the Council's explanations for the time taken; its indication that applications are moving faster since the adoption of the NBBP in June 2019; and that its rate of housing completions has seen steady increase from a low of 153 in 2013/14 to 809 in 2021/22, just 3 short of its current annual requirement as per the stepped trajectory of the NBBP.
17. The appellant's alternative approach referred to a study by consultants Lichfields, which looked at delivery rates and timescales of 97 large sites nationally. The Council is critical of this study, citing its small sample size, lack of context for each development, and the authors' statement that the study is not definitive. Though illustrative of the factors which affect delivery timescales for large developments, the study is limited in its scope and does not form part of recognised local or national planning guidance, and thus attracts limited weight. However, the appellant ultimately sought to rely at the hearing on calculations derived from the timescales of local examples of other schemes determined, or still to be determined, by the Council.
18. I consider the individual sites below, having regard to the definition of deliverability in the Framework, and also the Planning Practice Guidance⁴ in terms of the evidence that may demonstrate deliverability. In general, the evidence presented to me by the Council is in the form of brief summaries of progress, with no additional site specific evidence advanced to substantiate the stated position, such as records of communication or written agreements

³ Sites with full planning permission (1,449), outline planning permission (268), prior notification (9), SHLAA sites (536), windfalls and prior approvals (110), less 10% deduction for non-completion on small sites (90).

⁴ Paragraph: 007 Reference ID: 68-007-20190722

between the Council and site developers regarding the timelines for applications, reserved matters, start dates or build-out rates.

19. *Arbury (HSG2)* – This is a large site allocated for a total of 1,525 dwellings, of which the Council estimates 330 will be delivered within the five year period. The appellant contends no housing will be delivered in this time. It is indicated that the site is in single ownership and that an outline application is expected in the first quarter of 2023. The Council adds that enabling works to construct a bridge to access the site are ongoing, though this is not essential for the first phases of development. The site was also selected as a pilot for the Government’s Design Code programme and supplementary planning documents have been prepared for the site. However, I was also told that, unlike some other disputed sites, no technical studies that would inform an application have been undertaken to date, and the appellant pointed to the lack of a developer as being likely to add to the timescales for delivery.
20. Despite the Council’s assurances that an outline application will be made in early 2023, there is no firm evidence before me that this will occur. The absence of meaningful pre-application discussions also leads me to question that an application will be forthcoming by this time, much less one that has addressed all technical concerns. Also, although strong developer interest is indicated, there is no confirmation that one is on board, and this raises considerable doubt that the timescales set out by the Council can realistically be achieved, as the landowner would not ultimately be in control of a start date on site or build-out rates. The scale of the site and the potential that it will have to be phased or split into smaller schemes adds to the likelihood of delivery being later than anticipated. Given these factors, I consider that delivery by Year 3 as set out by the Council is optimistic and delivery of the first homes in Year 5 is more realistic. Therefore, I deduct 280 dwellings from the Council’s supply.
21. *Gypsy Lane (HSG3)* – Outline permission has been granted for 585 dwellings in January 2021. A reserved matters application is with the Council for decision, which I was told was due to be presented shortly to committee, although it has yet to be confirmed on an agenda. The Council estimates delivery of 285 units within five years, based on the first dwellings being delivered in Year 2, by March 2024. The appellant estimates a start one year later, citing the need to discharge conditions and mobilise on site, and calculates delivery of 185 dwellings within five years.
22. There is clear evidence of progress in this case, given the submission of reserved matters, and I have no firm reasons to doubt they will be granted. However, given these applications have been with the Council for over one year, and other conditions still fall to be discharged, I consider that the delivery of dwellings in Year 2 as estimated by the Council is optimistic at this point, particularly given the scale of the site and the time likely to be required to commence works. Therefore, I consider the appellant’s estimates of delivery commencing in Year 3 to be reasonable in the circumstances and I deduct 100 dwellings from the supply.
23. *Woodlands (HSG4)* – The site is in dual ownership. Both owners are indicated to have commenced pre-planning discussions, with some initial ecology and highways studies having been undertaken. The scale of the allocation, at 689 dwellings, would require new infrastructure including a school and a new access

to the A444, The Council anticipates the more advanced of the two proposals to deliver the first 170 dwellings, for delivery to occur within 18 months, and for a total of 200 dwellings to be provided within 5 years. The appellant disputes whether an application will be made and approved in the time anticipated, and notes that the site is not being taken forward as an allocation in preparation of the emerging local plan. The appellant predicts delivery of just 9 dwellings on a small parcel of land within the wider site which have permission.

24. Neither parcel has reached an application, and there is limited evidence of front loading of technical studies that would smooth the passage of one or more applications through to permission. Nor is there clarity as to how delivery of necessary infrastructure would be divided between the different schemes. As such, there appears to me to be a number of outstanding matters which could delay the granting of planning permission and subsequent commencement of works. In light of this, the Council's estimates of delivery commencing in Year 3 appear quite optimistic. Rather, delivery commencing in Year 5 appears more realistic at this stage. This would have the effect of reducing supply within 5 years by 141 dwellings, assuming the 9 dwellings with planning permission are separately developed.
25. Hospital Lane (HSG5) – An outline application for 455 dwellings is indicated to be close to a recommendation for approval. The Council states that all technical matters have been addressed, and that the appellant has indicated a reserved matters application will be made promptly once the outline permission has been issued. The appellant points to potential delay in the completion of the legal agreement, and to the need to first agree a phasing plan before reserved matters are dealt with.
26. There is evidence of the application being progressed and an indication that this will continue. However, a resolution to grant is still pending, along with relevant legal agreements, and it is uncertain as to when permission will be granted, or how quickly subsequent applications for reserved matters and conditions will be made. Nor is it clear that there is a developer attached to the site. This leads me to the view that the Council's anticipated delivery starting in Year 2 is overly optimistic, and I find that delivery starting in Year 4 is more realistic. Therefore, I deduct 100 dwellings from the supply.
27. Bulkington (HSG7) – An outline application for 230 dwellings is with the Council, against an allocation for 196 dwellings. The Council points to the front loading of technical studies, but it was also stated that different access points were being proposed to those originally envisaged in the development plan, which are still under consideration. There is also a question mark over a strip of land needed to provide a secondary access. The Council conceded at the hearing that delivery is likely to be one year later than their original estimate of Year 2. The appellant considers the timelines optimistic and projects no dwellings within five years, also pointing out that this site has not been taken forward in the emerging local plan. In light of the uncertainty regarding access, and the lack of a firm timeline for an outline permission to be granted, it strikes me as optimistic for delivery even in Year 3, with Year 4 more realistic. Therefore, I deduct 100 dwellings from the Council's total.
28. Land off Golf Drive (HSG9) – The site has full planning permission for 621 dwellings. I was told some conditions are discharged with others submitted to the Council. Some delay has occurred in processing these due to staff absence.

The evidence otherwise indicates that the developer is intent on bringing development forward, though the delay in resolving the conditions suggests that the appellant's estimates of the first homes being delivered in Year 3 is more realistic. Therefore I deduct 75 homes from the delivery on this site.

29. Attleborough Fields (HSG10) – The site is under construction for a total of 360 dwellings. The Council indicates that the first dwellings will be available by December 2022, and that 60 will be delivered in Year 1, by March 2023. The appellant estimates 20 in Year 1, based on progress to date on site. I visited the entrance to the development but this was inconclusive as to the number of dwellings that are complete or nearing completion. However, given works are ongoing, I have no firm evidence to dispute the Council's overall predicted delivery rates, which apart from Year 1 are agreed by the appellant. Therefore, I make no deduction in respect of this site.
30. Judkins Quarry (HSG11) – The site is allocated for 200 dwellings. Two applications are under consideration by the Council, one for nearly three years and the other for over four years, without decisions being made. The Council conceded at the hearing that the site encompasses part of a local wildlife site, with the implication being that this was proving a significant constraint. The Council accepted that its estimates of delivery were optimistic, and could be set back by one year to Year 3. The appellant argues delivery would occur a further year later in Year 4. Given the particular constraints of this site, and the length of time already taken trying to resolve them, I find the appellant's estimates more realistic. Therefore, I deduct 80 dwellings from the Council's supply.

Conclusions on housing land supply

31. Overall, for the reasons set out, I discount a total of 876 dwellings. This reduces the Council's supply from 6,819 to 5,943. Set against the agreed requirement of 6,012, this equates to some 4.94 years supply. Therefore, on this main issue, and based on the evidence that is before me, I conclude that the local planning authority is unable to demonstrate a five year supply of deliverable housing sites. I address the implications of this for the overall planning balance below.

Effect on landscape character and non-designated heritage asset

32. The field pattern within the site is defined by a series of curved, reverse 'S'-shaped hedgerows, which it is suggested is an example of an early phase of the enclosure of open fields dating from the medieval period. Examples of ridge and furrow earthworks are also present on site.
33. The Council considers these features in combination constitute a non-designated heritage asset (NDHA). It further refers to the effect of the proposal on what it considers the wider historic landscape of the area, forming part of the Warwickshire Arden, historically characterised by wood-pasture within a varied, undulating topography and an ancient pattern of small to medium-sized fields. The strips of land within the appeal site are considered an example of a later medieval open field system, with hedgerow patterns to the north also indicating the historic presence of open field systems in the surroundings. At appeal in 2013, the Inspector concluded that the grouping of fields had clear regional and/or local value in heritage terms, and that it fell within the terms of an NDHA as defined in the Framework.

34. The appellant points to subsequent ploughing out of much of the ridge and furrow earthworks as diminishing the value of the asset, and that the proposed retention of around 90% of the hedgerows within the site would enable the historic field pattern to still be understood and would temper the effect of the proposal on its surviving significance.
35. The parties dispute the relative significance of the site as an example of medieval field enclosure. On the one hand, the Council points to it being a rare landform within its administrative area, amounting to some 1.22% overall, and to the proposal resulting in the loss of some 50% of the surviving piecemeal enclosure in the north and west of the borough. Conversely, the appellant points to piecemeal enclosure being 'abundant' in Warwickshire, with the proposal resulting in the loss of just 0.01% of the total amount. The appellant also advances that the ridge and furrow earthworks score poorly in terms of quality when assessed against published guidance⁵. As such, the appellant suggests the remaining features of the site are not significant enough to warrant consideration as an NDHA.
36. I saw on site that the hedgerow pattern remains well intact, and is prominent in views from a number of vantage points, including the footpaths through the site (N54) and through the field to the west (N52). The field is also clearly discernible in views along Tunnel Road approaching Galley Common from the west. From these viewpoints, the compact pattern of the hedgerows and small enclosures between them form a distinctive feature which contrasts with the wooded backdrop to the north and the large, open agricultural field to the west.
37. I recognise that some of the ridge and furrow has been lost and note the Council's view that this was deliberate and should not be taken into account, per the guidance of Paragraph 196 of the Framework. However, as was acknowledged in the appeal in 2013, there is no statutory protection for the ridge and furrow earthworks, which could be ploughed out. However, there remains a limited extent of it which can be discerned on site, and this adds modestly, but still positively, to the overall significance of the site. I concur with the previous Inspector that continued use of the land for grazing by horses, whilst not ideal for the maintenance of the ridge and furrow which survives, would maintain its pastoral quality.
38. Piecemeal enclosure may be more prevalent across the wider county of Warwickshire, but the evidence before me indicates that it is rarer in the local area. Having regard to the totality of surviving features, I find that even with the partial loss of ridge and furrow earthworks, the grouping of features, in particular the hedgerows and field pattern, retain historic significance at a local level, and should be considered as an NDHA.
39. This being the case, the proposal to develop the land for housing would result in substantial loss of significance. Most notably, the field pattern which is visible at distance within the surroundings would be completely lost to built development. The retention of the hedgerows may allow some interpretation of a historic field pattern on a plan of the site, but on the ground it would no longer be discernible amid a modern residential layout.
40. Moreover, whilst my considerations in this respect are similar to those of the Inspector in 2013, the current proposal would go further than that scheme,

⁵ Turning the Plough, 2001 (NCC)

which proposed to leave the westernmost field undeveloped and the ridge and furrow earthworks within it intact. Similarly, the scheme approved in 2017 involved development over a limited extent of the site to the eastern side, with no significant adverse effect on the significance of the NHDA or its constituent features. In short, the proposal before me would have a more harmful effect than either of these schemes.

41. In more general terms, the site occupies a position behind a strong, consistent linear pattern of development which terminates the built form of Galley Common on this side of Tunnel Road. Open countryside extends beyond the dwellings to the west, north-west and north where a demonstrably rural character takes over, interspersed with isolated buildings. This rural impression is reinforced when walking the public footpaths through and around the site, and from other viewpoints of the appellant's Landscape and Visual Impact Assessment (LVIA) which I took in during my site visit.
42. I understand that the submitted site layout is indicative at this stage, though given the quantum of development proposed and the desire to retain the hedgerows, it is reasonable to consider that the development would not depart fundamentally from what is shown. This would create a substantial residential estate in a clustered layout that would extend noticeably into the open countryside. The scale and shape of development would be in sharp contrast to the narrow linear pattern which characterises this side of Tunnel Road and represents a tapering off of the built form at the edge of the settlement where it transitions to the open countryside.
43. In terms of visual impact, the appellant's LVIA identifies a high magnitude of change at Viewpoint (VP) 1 looking into the site from the public footpath, with other viewpoints regarded as having medium to negligible impacts. However, having looked from these viewpoints, I consider the magnitude of change would be greater than indicated, particularly for VP2 and VP11 to the west of the site where the development would be in plain view at short range and would significantly alter the rural landscape seen from these vantages. Having viewed from these and other points, I am not persuaded that landscaping would soften or screen the development to the extent that its altering effect on the rural character of the area would be sufficiently moderated.
44. Indeed, the LVIA states that there would be Major-Major/Moderate Adverse effects after Year 10 at VP1, with several others categorised as Major-Moderate Adverse or Moderate Adverse. These categorisations affirm my observations that landscaping would have limited effect in mitigating the visual impact of the proposal or integrating the proposal into its surroundings, and it would remain prominent in the landscape in the long term.
45. Taking these considerations together, the proposal would result in development where there presently is none and would fundamentally change the rural character of the site, resulting in an intrinsic loss of open countryside to a suburban form of development which would extend the settlement in an uncharacteristic manner and scale and result in the substantial loss of significance to the identified NDHA. Whilst I accept that the visual effects would be localised, they would nevertheless be harmful to the landscape character of the area.
46. Therefore, the proposal would conflict with Policies BE3 and BE4 of the NBBP, which require development to contribute to local distinctiveness and character

by reflecting the positive attributes of the neighbouring area; and that development affecting a designated or non-designated heritage asset and its setting will be expected to make a positive contribution to its character, appearance and significance.

47. There would also be conflict with the Framework's recognition of the intrinsic character and beauty of the countryside⁶ and the need to ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting⁷.
48. Paragraph 203 of the Framework adds that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The asset has local significance, but given the degree to which its significance would be lost, it is a matter to which I afford considerable weight in the planning balance.

Effect on highway network

49. The Council's concern relates to the capacity of the highway network to accommodate additional traffic generated by the development. In particular, it is argued that the existing junction at Plough Hill Road/Coleshill Road, some 1.4 miles to the north-east, operates over capacity during the morning peak, based on assessments carried out using industry-recognised PICADY software.
50. The appellant has questioned the approach of Warwickshire County Council (WCC) as the local highway authority to using mobile network data to ascertain traffic distribution levels to and from the appeal site, as it suggests the 89% distribution rate from the site to the junction does not reflect the situation on the ground. As a result, it has applied a lower distribution rate based on the PM peak. On this basis, the appellant states that the Plough Hill Road/Coleshill Road junction is operating at 103% RFC⁸ during the AM peak, with an average queue length of 17 vehicles and a delay of 164 seconds. The proposal would add 11 2-way movements during the AM peak, resulting in the junction being at 106% RFC, with some 21 queuing vehicles and a wait time of 192 seconds.
51. WCC in its appeal submissions sets out that where the RFC exceeds 85%, mitigation schemes should be considered to improve capacity. It adds that existing wait times are already excessive and I heard at the hearing that drivers can resort to cutting through the estate roads from Waggestaff Drive to Skey Drive to avoid delays at the junction and reach Bucks Hill. If the higher trip rate data is used as advocated by WCC, the proposal would add 22 two-way movements in the AM peak through the junction, with queues and waiting times greater than suggested by the appellant.
52. Even taking the appellant's more moderate figures, the evidence suggests that the junction is already over capacity and additional traffic generated by the development would add further to queue lengths and waiting times. I acknowledge the appellant's point that cars are in a rolling queue, and the waiting time is that for the whole time queuing, not the time spent at the give way line waiting to turn onto Coleshill Road. However, the proposal would still

⁶ Paragraph 174

⁷ Paragraph 130

⁸ Ratio to Flow Capacity

add to traffic at a junction already acknowledged to be over capacity in the morning peak.

53. I was told at the hearing about other developments under construction on Plough Hill Road which would add to traffic at the junction. One of these includes as yet unimplemented traffic calming measures. I was also told that proposals to amend the junction layout were still being explored, with no solution yet identified. However, these are ultimately separate matters relevant to other developments. The evidence before me suggests that the present scheme would lead to additional stress on the highway network at the Plough Hill Road/Colleshill Road junction.
54. I am mindful of the Framework which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this case, whilst there would be a worsening of a junction already over capacity, the increase in the number of vehicles and the length of queuing times would not be significant and they would only occur for a short period within the morning peak. This would not amount to a severe impact on the highway network such that this alone would be reason to dismiss the appeal.
55. Nonetheless, in the absence of any form of mitigation for the additional pressure the proposal would create, there would still be moderate harm arising in terms of the operation of the highway network. This would conflict with Policy HS2 of the NBBP, which requires proposals to demonstrate whether they will meet acceptable levels of impact on existing highways networks and the mitigation measures required to meet this acceptable level.

Access and parking

56. Access is proposed to be taken between the dwellings at 147 and 155 Tunnel Road. The Council's concerns relate to intervisibility at the junction, particularly when large vehicles, such as refuse lorries, are attempting to enter or exit the site. Whilst I have had regard to the points raised by the Council, it was established at the hearing that it would be possible to adjust the visibility splays at the corners of Nos 147 and 155 to achieve better sightlines and minimise the risk of conflict between large vehicles and other traffic. Given that refuse collections are indicated to occur at most twice a week, and traffic into and out of the development would not be constant, the potential for this conflict to arise is limited, and would be further minimised with adjustments to the visibility splays being made. This could be secured by condition.
57. Moreover, I note that the size of the access meets relevant design standards, and is 0.5 metres wider than that proposed as part of the 2017 scheme. It was also pointed out that whilst the bellmouth could be widened, this would have a negative effect on the environment for pedestrians. I also note that access was found to be acceptable under the 2013 appeal for a larger number of dwellings.
58. The appellant accepted at the hearing that the proposed on-street parking spaces on Tunnel Road may not be feasible due to constraints with land ownership. However, it would be possible to secure additional parking spaces within the site itself, as layout is reserved matter. These could replace existing spaces lost by the suggested implementation of bollards and/or double yellow lines either side of the junction to ensure visibility.

59. In other respects, I agree that traffic calming measures are necessary to ensure safe access is provided to the site, in view of the indicated traffic speeds on Tunnel Road, and I agree with the conclusions of the Inspector in 2013 that this would represent a modest benefit in terms of reducing speeds generally. The Council's concerns with the details shown on the plans relate to minor matters which could be addressed by condition.
60. Overall, I am satisfied that safe access could be provided to the development, and no conflict would therefore arise with Policy HS2 of the NBBP in terms of its requirement that developments demonstrate how they would ensure adequate accessibility in relation to all principal modes of transport.

Other Matters

Planning Obligation

61. A signed and dated unilateral undertaking has been submitted by the appellant. This provides for 25% on-site affordable housing and financial contributions towards provision and/or maintenance of hospital and local primary care services, sports facilities, secondary education places and public rights of way. I am satisfied that each sought obligation meets the tests set out in Paragraph 57 of the Framework for planning obligations. As a result, I have taken the completed agreement into account.

Other Issues Raised

62. I have had regard to other concerns raised in correspondence and at the hearing by interested parties, beyond those already addressed. However, none of these concerns are significant enough to alter my conclusions on the main issues or weigh materially for or against the proposal in the planning balance. Consequently, I do not address them further.

Planning Balance

63. I find that the local planning authority is unable to demonstrate a five year supply of deliverable housing sites. In this circumstance, Paragraph 11(d) of the Framework sets out that the policies that are most important for determining the application should be considered as out-of-date, and the 'tilted balance' is engaged. Given this position, the aforementioned development plan policies are out-of-date. I afford the conflict with these policies therefore diminished weight in decision-making terms. Nonetheless, identified conflict with development plan policies does still weigh against allowing the proposal.
64. Whilst I have identified harm in a number of respects, there are no policies in the Framework of relevance to this appeal that protect areas or assets of particular importance that provide a clear reason for refusal. Therefore, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
65. The proposal would deliver distinct benefits, principally the provision of up to 70 dwellings which would support the national objective to increase the supply of housing and would make a meaningful contribution to the shortfall in the Council's overall housing supply. As such, the delivery of housing merits significant weight in favour of the proposal. The provision of up to 25% affordable dwellings is also a benefit attracting positive weight.

66. In addition, there would be moderate economic benefits from the construction of the dwellings, though this would be a temporary benefit, and from subsequent use of local services by future residents. There would be minor environmental benefits from additional tree planting across the site and proposed biodiversity enhancements, and in the traffic calming measures on Tunnel Road reducing traffic speeds.
67. Set against these benefits, there would be significant harm arising from the conflict with the spatial strategy of the development plan. There would also be significant environmental harm due to the intrinsic and permanent adverse effect on landscape character and significant harm to the heritage significance of a NDHA. The adverse impact identified to the local highway network would be a further harm of limited weight.
68. Other issues where no material harm has been identified, or where impacts could be suitably addressed through a condition or undertaking, are neutral considerations in the overall planning balance.
69. In my judgement, the adverse effects of the proposed development, including conflict with development plan policies, would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent a sustainable form of development and, as a material consideration, the Framework does not indicate that permission should be granted.
70. I appreciate that my finding about the housing land supply position is one where I consider that the LPA is just under the minimum five year supply requirement. Even if one were to disagree with this finding and determine there is more than a five year supply, up to and including the 5.67 year supply suggested by the Council, I would still have concluded that the proposal was unacceptable on balance given the clear conflict with policies DS3, BE3, BE4 and HS2 of the NBBP, and that conflict with these policies was a matter of overriding concern that outweighed the identified benefits of the proposal.

Conclusion

71. Therefore, I conclude that the appeal should be dismissed and planning permission for the development refused.

K Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Debbie Jones BSc(Hons) MSc MRTPI	Associate, Frampton Town Planning Ltd
Stuart Dunhill BEng(Hons) PhD CEng MICE	Director, ADC Infrastructure Limited
Dr Michael Dawson BA(Hons) MPhil DPhil FSA MCIfA	Director, RPS
Nicola Lea BSc(Hons)	Land Manager - A R Cartwright Ltd

FOR THE LOCAL PLANNING AUTHORITY:

James Gellini	Principal Planner, ET Planning
Neil Glover	Planning Policy Officer, NBBC
Paul Kinsella	Transport Planner, WCC
Tony Burrows	Development Management Engineer, WCC Highways
John Robinson	Senior Historic Environment Officer, WCC
Jeff Brown	Head of Development Control, North Warwickshire Borough Council

INTERESTED PARTIES:

Cllr Mandy Tromans	Borough/County Councillor
Mark Sullivan	CPRE Warwickshire

Documents submitted at the hearing

1. Copy of site photographs dated 2013 and 2020

Documents submitted after the hearing

1. Email dated 6 October 2022 from LPA attaching:
 - a. Copy of Council's housing land supply position as at 1 April 2022
 - b. Copy of 2022 Housing Trajectory
2. Email dated 6 October 2022 from LPA with clarifying remarks on appellant's housing land supply methodology
3. Email dated 7 October 2022 from appellant in response to Council's housing land supply information and comments on methodology, and attaching:
 - a. Copy of Policy HSG11 of the NBBP
 - b. Site Location Plan for outline permission Ref 035595
 - c. Site Location Plan for outline permission Ref 035647
 - d. Amended Appendix 1 to HSoCG
4. Email from WCC dated 6 October attaching analysis of observed conditions at Plough Hill Road/Coleshill Road junction
5. Transport Technical Note by ADC Infrastructure, received 13 October
6. Signed unilateral undertaking, received 17 October