



Appeal Decision

Inquiry Held on 25 July to 2 August 2023

Site visit made on 1 August 2023

by Peter Mark Sturgess BSc(Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2023

Appeal Ref: APP/K2420/W/23/3317090

Land North of Shenton Lane, Market Bosworth, Leicestershire (Easting 440192 Northing 302649)

- 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 Gladman Developments Limited against Hinckley & Bosworth Borough Council.
 - The application Ref 22/00167/OUT, is dated 18 February 2022.
 - The development proposed is outline planning application for the erection of up to 125 dwellings (including 40% affordable housing) with public open space, landscaping, and sustainable drainage system (SuDs) and a vehicle access point. All matters reserved except for means of access.
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Decision

1. Appeal dismissed and planning permission refused.

Preliminary Matters

2. The proposal is in outline with all matters reserved except for the main access to the site. I have therefore regarded all plans as being for illustrative purposes only, apart from those which were agreed at the inquiry, these are: 1764/01 Rev L and 1694-11-H, and 10352 -FPCR-L -10-Rev B
3. I held a case management conference (CMC) on 7 June 2023. This was to discuss the arrangements for the Inquiry and the merits of the case were not discussed.
4. I have received a signed and dated planning obligation and unilateral undertaking made in accordance with Section 106 of the Town and Country Planning Act 1990. Therefore 1 of the reasons that the Council might have refused planning permission has been addressed. However, I will deal with the UU and the planning obligation if they are appropriate to this decision.

Background and Main Issues

5. The appeal is against the Hinckley and Bosworth Borough Council's failure to determine an application for planning permission within the prescribed time. As such the Council has not issued a formal notice of decision in relation to the application.

6. However, the Council has set out the reasons it would have used to refuse the proposal had it been the decision taker in its statement of case. These reasons were discussed at the CMC.
7. As a result of the discussions at the CMC the main issues in this appeal were agreed as:
 - whether the proposal is in a suitable location for development having regard to the policies of the development plan;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal on the setting of the Market Bosworth Conservation Area;
 - the effect of the proposal on a non-designated heritage asset, namely the ridge and furrow field pattern present on the site;
 - whether the proposal is acceptable in terms of its effect on highway safety on roads around the appeal site;

Reasons

Location of the development

8. The appeal site lies on the south side of Market Bosworth. It adjoins the housing areas of York Close, Stanley Road and Northumberland Avenue. These housing areas are relatively modern, being constructed within the last 50 years. As well as housing, the site is also bounded on the Shenton Lane side by allotments. To the west and south are open fields.
9. The development plan for the area consists of the Hinckley and Bosworth Core Strategy 2006-2026 (2009)(CS), Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP) and the Market Bosworth Neighbourhood Plan 2014-2026 (NP).
10. Policies 7 and 11 of the CS and Policy CE5 of the NP both rely on settlement boundaries to guide the location of new development within the Borough. These Policies include DM4, which to all intents and purposes, is the over-arching policy which is aimed at 'protecting the countryside' from 'unsustainable development'. For the purposes of the SADMP all development that does not fall within categories a) to e) is defined as unsustainable and therefore in conflict with this Policy.
11. The parties are agreed that the site does not lie within the settlement boundary of Market Bosworth and neither does it fall within these categories set out in DM4 as constituting 'sustainable development'. Moreover, other policies, which for the purposes of this decision are DM5 (rural workers dwellings) and DM14 (replacement dwellings) do not apply to the proposal.
12. Both the Council and the appellant agree that Market Bosworth is a suitable place for development as it contains a variety of services and has public transport connections. Moreover, the appeal site is within walking distance of these facilities. Nonetheless it lies outside the settlement boundary of the town as set out in the Policies.

13. Therefore, the appeal proposal is in conflict with the locational policies of the development plan. However, these policies are more restrictive than the National Planning Policy Framework (the Framework). For example, Policy DM4 seeks to protect the intrinsic value of the countryside whereas the Framework seeks to ensure that the intrinsic value of the countryside is recognised. As a consequence, I give this conflict moderate weight in this decision.

Character and appearance of the area

The site

14. The site is divided into two parts by a hedge. The smaller part lies adjacent to Shenton Lane and connects the public highway with the larger part of the site. From Shenton Lane the site appears relatively flat, although a ridge line does run through the smaller field. However, once through the hedge, there is a distinct slope towards the housing on York Close and Stanley Road with the lowest point of the site lying at the western/York Close end of the site.
15. The part of Shenton Lane where the appeal site is located, and access is to be made, currently has a rural/countryside character, with the houses that comprise the built area of Market Bosworth finishing some distance to the north beyond the allotments. Opposite the proposed access is a livery business and beyond that open fields which extend both towards the town and out into the open countryside. The proposal would result in housing being constructed facing on to Shenton Lane, albeit behind existing and proposed trees and other vegetation. Despite the vegetation this would have the effect of extending built development along Shenton Lane into the open countryside surrounding the town.
16. In terms of visibility from public vantage points there are glimpse views of the site from between the dwellings on York Close and Stanley Road and from the public footpath which approaches the site from the west. However, the main public view of the houses on the site would be from Shenton Lane.
17. The land form, which slopes down from the smaller field, and the existing housing developments to the east and the north, would mean the majority of the site would be relatively well contained within the landscape, and would not be visible from Shenton Lane. Glimpse views would be possible from the public footpath, but these would be filtered through existing and anticipated trees and vegetation. Longer views from Priory Lane for example, would be possible but any new development would be read against the back drop of the existing houses and through trees and vegetation. Important views from the south of the town, such as those through to the spire of the parish church, would be maintained as the site is considerably lower than the church.
18. Overall, for the reasons set out above, the development of the larger field would result in development that is well contained and would not intrude significantly into the countryside surrounding the town. Moreover, the development of the larger field would have a negligible effect on the character and appearance of Market Bosworth.
19. However, the proposed development of the smaller field, adjacent to Shenton Lane, would result in houses being visible from Shenton Lane and a new vehicular and pedestrian access being created. This would have the effect of extending the built development of Market Bosworth on this side of Shenton

Lane out into the countryside surrounding the town. I have already set out above that the character of Shenton Lane at this point is rural/countryside and that this contributes to the character and setting of the town. Therefore, the proposed new housing and accesses would have the effect of urbanising this part of the Shenton Lane to the detriment of its rural/countryside character. Consequently, harming the rural character and appearance of this approach to Market Bosworth.

The surrounding lanes

Shenton Lane

20. Shenton Lane's rural/countryside character is a key part of its charm and its contribution to the setting of Market Bosworth. This character persists as it continues past the access to the appeal site towards the centre of Market Bosworth. The character only gradually changes as houses appear on one side and street lights and road signs are introduced. The carriage way itself remains free of white lines, kerbs, and footways until it reaches the cemetery and its junction with Warwick Lane. From that point onwards it is clear that it is part of the town.
21. However, in order to ensure safe access to the site from surrounding roads for pedestrians and other road users it would be necessary to install traffic management measures along the length of the road from the appeal site to Warwick Lane. This would involve narrowing the carriageway with build outs, the installation of footways (including kerbs), lighting, white lining, and road signs between the appeal site's access and Warwick Lane. It would also result in the loss of part or all of the verges which are a characteristic of this part of the lane.
22. These works would significantly change the character and appearance of this part of Shenton Lane. The footways, signs, white lines, kerbs, and the lighting would result in urban road paraphernalia extending for a significant length out of the town along Shenton Lane. In addition, an area of one-way 'shuttle working', facilitated by the build outs, would be introduced. This would have the effect of urbanising what is currently a country lane that leads into the heart of the town and contributes significantly to its rural character.
23. The rural character of Shenton Lane is highlighted in the NP which identifies an important view point (9) in the vicinity of the entrance to the allotments. The photograph of this view point at page 31 of the NP shows a street lighting column being clearly visible, but a lack of other road features such as white lining, kerbs or other street furniture at this point.
24. The features necessary to ensure safe access to the site would result in an urbanisation of Shenton Lane from its junction with Warwick Lane to the appeal site. These features would significantly change its character and appearance from a country lane to a road which would be heavily influenced by urban traffic management measures. As a result, its existing rural character and appearance and its contribution to the rural/countryside approach and setting of Market Bosworth would be significantly harmed.

Warwick Lane

25. Warwick Lane lies within the settlement of Market Bosworth. However, that part of the lane from near its junction with Warwick Close to Shenton Lane

does display a distinctly rural character with trees, a steep grass bank, level grassed area, and a lack of footways.

26. The appeal proposal would lead to works being carried out in Warwick Lane that would appreciably change its character. These works would include the installation of footways, the installation of an 'over runnable' area, and a retaining wall alongside the grassed area, replacing the grass bank. All of these works would have an urbanising effect on what is currently a pleasant rural approach to this part of the town, significantly harming its character and appearance.

The development plan

27. Policies relevant to the character and appearance of the area include Policies DM4 of the SADMP and Policies CE3 and CE5 of the NP.
28. Policy DM4 of SADMP seeks to protect the intrinsic beauty of the countryside and to safeguard it from unsustainable development. It does this by specifying a number of categories into which development must fall in order for it to be considered sustainable. There was debate at the Inquiry over the precise meaning of Policy DM4 and, in particular, whether the list set out at a) to e) was an exclusive list or merely gave examples of the types of development that might be considered sustainable.
29. It appears to me that the Policy divides into 3 inter-related parts. Firstly, it seeks to protect the intrinsic value, beauty and open character and landscape character of the countryside from unsustainable development. Secondly it seeks to do this by setting out a list of developments that will be considered sustainable. On the plain meaning of the words set out, it is clear that the list is meant to be exhaustive. There is no suggestion, either in the Policy itself or the explanation given in paragraphs 13.1 to 13.13, that the criteria set out at a) to e) are meant to be examples and that there might be more categories which could be considered sustainable development in the context of the Policy. Thirdly and in order for the development specified in a) to e) to be acceptable it needs to comply with the criteria set out in i) to v).
30. Therefore, and in order to understand how the Policy might apply to the appeal proposal it needs to be considered in stages. Firstly, does the development protect the intrinsic value, beauty and open character and landscape character of the countryside. I have found above that Shenton Lane is currently a rural lane and that for its length past the appeal site and for some distance towards the town it lies in the countryside. Furthermore, I have found that the proposed houses along Shenton Lane and the urbanising effect brought about by the need to manage traffic in Shenton Lane would harm this rural and countryside character. Consequently, and in terms of the first part of Policy DM4, I find that the appeal proposal is in conflict with this Policy.
31. In terms of the second part of Policy DM4 the appeal proposal does not fall into any of the categories defined as sustainable development in the Policy. Therefore, it is in conflict with this part of the policy. Finally, it is clear to me that it would have a significant adverse effect on the intrinsic beauty of parts of Shenton Lane, for the reasons given above. Thereby rendering it in conflict with at least 1 of the criteria set out in i) to v). Overall, the proposal is in conflict with Policy DM4.

32. Policy CE3 of the NP refers to important views and vistas. There are 2 relevant views and vistas identified on page 34. Important vista 10 is located just to the west of the appeal site and identifies an important rural vista out of the settlement looking west towards Far Cotton. As the vista is primarily concerned with rural views looking away from the appeal site it is not relevant to this decision.
33. However important view 9 looks directly along Shenton Lane in the vicinity of the appeal site. The commentary on the view point in the NP concludes that *'This uphill view is another example of the unique setting of Market Bosworth, with the close proximity of farmed countryside and grazing land so close to the historic core.'* I have found that the appeal proposal would introduce urban features into this area. Moreover, the effect of housing on the left-hand side of the road, going north, would mean that the countryside on that side of the road would be pushed further away from the historic core of the town. The proximity of the countryside to the historic core of the town has been identified as a key characteristic in this location.
34. Policy CE5 seeks to protect the wider landscape of the parish from development that would cause harm to the landscape and cannot be effectively mitigated. As with DM4, the Policy sets out a list of developments that would be acceptable in the countryside. The appeal proposal does not fall within any of these categories. Furthermore, I have found that the proposal would harm the countryside and rural character of Shenton Lane for the reasons set out above. I therefore find that the appeal proposal is in conflict with this Policy.

Conclusion on character and appearance

35. Overall, I find that the appeal proposal, for the reasons given above, is in conflict with DM4 of the SADMP and CE3 and CE5 of the NP. I give the conflict with these policies substantial weight in this decision.

Setting of the Conservation Area

36. The majority of the appeal site is an appreciable distance from the Conservation Area (CA) and is separated from it by areas of modern housing. Whilst glimpse views of the site would be possible from the public footpath from the west and from between the houses on York Close and Stanley Road it would not be seen in the context of the CA. Therefore, this part of the site would not have an effect on the significance of the CA.
37. However, it is clear from paragraph 3.0 of the Conservation Area Appraisal¹ (CAA) that the setting of Market Bosworth is comprised of a ridge top settlement approached through woodland, pasture, and traditional parkland and this setting makes a substantial contribution to its significance. Moreover, at section 4.0 the CAA specifically sets out how important the entrances are to the setting of the town. At paragraph 4.2 the CAA states *'The countryside around the settlement and its relationship to the roads is a major factor in the appreciation of the character of the village and its Conservation Area'*. Whilst the CAA singles out the approach from the east as being of particular importance, the approach from the south via Shenton Lane is specifically referred to as contributing to the setting of the town. Therefore, it is apparent

¹ CD7.06

from the CAA that all entrances to the town, including that from Shenton Lane, are important in defining the significance and character of the CA.

38. With specific reference to Shenton Lane, the CAA recognises that this approach is through countryside with '*clumps of trees and shrubs*'. The CAA acknowledges the short length of housing on the northern side of the lane before entering the settlement proper adjacent to the new cemetery and acknowledges the similarity of this entrance to the eastern entrance. Nothing in the CAA detracts from the overall sense of Shenton Lane, on its approach to the CA, being predominantly rural/countryside in character. Having assessed these qualities at the site visit I concur with the CAA and find that the countryside/rural qualities of Shenton Lane, in terms of its relationship to the countryside, wide grass verges, absence of highway clutter, trees, hedgerows and views out into the surrounding rural area all contribute to the setting of the CA and therefore to its significance.
39. The proposed houses facing Shenton Lane, would be visible from the public highway which leads into the CA. They would have an urbanising effect on this part of Shenton Lane and in this regard have a slight effect on the significance of the CA as they would dilute the rural/countryside approach to it as outlined in the CAA.
40. The proposed highway works, described above, would change the character of both Shenton Lane and Warwick Lane where they either approach or adjoin the CA. Shenton Lane from the appeal site to its junction with Warwick Lane, adjacent to the CA boundary, would change from a rural/countryside lane with few highway features, to a road with kerbs, footpaths, more signage, more lighting, build outs and additional white lining. This would cause harm to the setting and significance of the CA.
41. The changes to Warwick Lane from Warwick Close to Shenton Lane would be even more stark, with the introduction of a retaining wall, a footway, different types of surfaces and kerbs all concentrated on a relatively short stretch of road. This would have the effect of changing this part of Warwick Lane from a remnant of a rural lane to a suburban street. This in turn would harm the setting of the CA and its significance.
42. These changes would cause less than substantial harm to the setting of the Market Bosworth CA and therefore its significance. Nonetheless in accordance with paragraph 199 of the Framework I am required to give great weight to the conservation of the Market Bosworth CA, and this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. This loss to significance can be caused from development within the assets setting.
43. I note that the Council and the appellant have sought to place the degree of less than substantial harm on a spectrum. This is not required as it can introduce an unnecessary degree of complexity to this judgement.²
44. Where a potential development will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. Against the harm identified above the benefits of the appeal proposal are: the provision of market housing in a

² Shimbles v City of Bradford MBC [2018], EWHC 195 (Admin), 08 February 2018

Borough which currently does not have a 5-year supply of deliverable housing sites; the delivery of affordable housing where a significant need has been identified; economic benefits during the construction stages of the development and through more people using the town's facilities; improvements in community infrastructure in the town; the provision of Green Infrastructure, and a biodiversity net gain (BNG). I give significant weight to these benefits.

45. It is clear from the CAA that the approaches to the CA are important to its setting and significance. This applies to all the approaches. Therefore, harm to 1 of these approaches would lead to harm to the significance of the CA as a whole. Overall, given the importance of the setting of the CA to its significance and where I am required to give great weight to the conservation of the CA, I consider that the harm that I have identified above outweighs the public benefits. Consequently, the Policies set out in the Framework provide a clear reason for refusing the proposal.
46. The relevant Policies of the development plan are Policies DM11 and DM12 of the SADMP. Policy DM11 seeks to protect the historic environment of the Borough and DM12 provides a detailed policy basis for protecting heritage assets, including their settings.
47. Policy DM12 in detail seeks to protect CAs from development that would affect their setting by ensuring that their significance is preserved through the consideration and inclusion of important features that are identified in the CAAs. Specifically, the Policy mentions important views, but this is not an exclusive list.
48. The CAA and the NP has identified the rural/countryside lanes approaching Market Bosworth, and views along them as being significant to the setting of the CA. I have found that the off-site highway works necessary in order to make the development acceptable in road safety terms, for the reasons given above, will harm the setting of the CA and therefore its significance.
49. I therefore find that the appeal proposal is in conflict with Policies DM11 and DM12 of the development plan. I give this conflict substantial weight in the decision.

The effect of the development on a non -designated asset

50. There is no disagreement that the development would affect the ridge and furrow field pattern present on the site. There is also no dispute that the effect of the proposed development on the ridge and furrow would be minor. Furthermore, a study which has been produced on ridge and furrow field patterns in the East Midlands³ has not identified earthworks within the parish of Market Bosworth as a 'priority township'.
51. The only area of dispute is whether the ridge and furrow field pattern should be considered as a heritage asset in its own right or as part of other ridge and furrow field patterns around Market Bosworth. I am inclined to the view that the ridge and furrow on the appeal site should be considered as part of the other ridge and furrow present around the town. This is because the Council has agreed that the impact of the appeal proposal on the ridge and furrow would be minor. In the case where they considered the ridge and furrow on the appeal site to be a discrete asset in its own right I would have expected their

³ CD7.05

assessment of the impact of the appeal proposal on that asset to be greater than that. In any event the Council has stated that if the ridge and furrow had been the only issue then they would not have objected the appeal proposal.

52. I note that the Parish Council has argued that the ridge and furrow on the site should be retained to help the local population understand the ancient field system used by their predecessors. Whilst I have had regard to this point, I have also had regard to the limited public vantage points from where the appeal site can be seen. Furthermore, I heard evidence that there are other examples of ridge and furrow around the town which are more readily visible to the public, which was not disputed. I therefore give this argument little weight.
53. Policy DM13 is concerned with preserving the Borough's archaeology. There is nothing in the Policy which would preclude the development of the appeal site in the manner proposed. I therefore find no conflict between the appeal proposal and this Policy and give this neutral weight in this decision.

Highway safety

54. In order to make the proposal acceptable in highway safety terms works have been proposed to Shenton Lane and Warwick Lane. These alterations have been described above. However, there is disagreement between the parties as to whether the proposals would adequately address the highway safety concerns.
55. The areas of concern are the introduction of parking restrictions where Shenton Lane enters the Market Place and whether these are achievable through a Traffic Regulation Order (TRO) and the road safety implications of an over-runnable area to allow vehicles to pass in Warwick Lane. I shall deal with each matter in turn.

Parking restrictions – Shenton Lane

56. The introduction of parking restrictions, to improve forward visibility, would require a TRO. A TRO would require to be advertised and any responses would need to be taken into account by the Council responsible for making the TRO, in this case Leicestershire County Council (LCC). The Local Planning Authority (Hinckley and Bosworth Borough Council) and LCC cast doubt on whether a TRO would be approved, as they suggested it might be subject to objections from the Police and the traders that used the Market Place, as it would lead to the loss of around 2 parking spaces. I note no evidence was produced either prior to or at the inquiry to substantiate these claims.
57. An additional concern was that parking displaced by the new restrictions would relocate further south on Shenton Lane, perhaps around its junction with Warwick Lane. This, according to the Council would exacerbate highway safety issues in this location. At present there is nothing to prevent parking in this location and it appeared to me that cars already park in this area.
58. The removal of 2 parked vehicles from the northern end of Shenton Lane would be a benefit to highway safety as it would allow outbound traffic greater forward visibility along Shenton Lane. This could reduce the conflict between vehicles on Shenton Lane and therefore reduce the need for any vehicle to reverse on the public highway.

59. In terms of its deliverability, I understand the need for a TRO to be advertised and for the relevant Council to take account of any objections received. However, I have not been made aware of any objections received from either the Police, the market traders or any other party to the possibility of a TRO being made in this location. Whilst I cannot comment on the likelihood or otherwise of any objections to a TRO being received, the relevant Council would need to consider all objections carefully and take account of highway safety concerns. Furthermore, any TRO would be for the removal of two parking spaces which would have very little material effect on the overall quantity of parking spaces available in the town centre.
60. In terms of the 2 car parking spaces being displaced to possibly near the junction of Shenton Lane and Warwick Lane, clearly this might be a possibility. However, I saw other possible spaces where cars could park and there is no certainty where the displaced vehicles might park.
61. Overall, I find that there is no substantive evidence that a TRO could not be made, given the improvement to highway safety that would result from the removal of 2 car parking spaces from Shenton Lane. Furthermore, whilst I understand the concerns about where the displaced vehicles might park, I find no evidence that they will be more likely to park near the junction of Shenton Lane with Warwick Lane than anywhere else around the town centre.

Highway safety - Warwick Lane

62. At present the part of Warwick Lane that would be subject to highway works is a relatively narrow two-way road with a grass bank on one side and a hedgerow on the other. It currently has no footway. Warwick Lane leads from Shenton Lane, via Southfield Way, towards Station Road and the services and schools which can be found in that direction, as such it is currently used by pedestrians and vehicles on a shared surface.
63. The appeal scheme would see a 1.5m wide footway installed from its junction with Warwick Close for a distance of approximately 45m, an 'over-runnable' strip of around 1.2m in width for a distance of approximately 15m and a footway of 1.5m in width from the 'over-runnable' strip to its junction with Shenton Lane, a distance of around 11m. At the Shenton Lane junction the kerb on the south side would be built out to increase the radius, in order to slow vehicles entering Warwick Lane from the south. A retaining wall would be provided along the grass bank. Therefore, this part of Warwick Lane would have a footpath installed over the majority of its route, albeit narrower than the standards required by LCC.
64. The main focus of concern relates to the 'over-runnable' strip where there might be conflict between pedestrians and vehicles and in certain circumstances between two vehicles. This could be more likely in the am peak when vehicles and pedestrian flows are at their maximum. Additionally at this time there could be children walking with parents accompanied by non-school aged children who would find it difficult to stay on the defined pedestrian area (the over-runnable strip).
65. Current traffic conditions in Warwick Lane have been described as light and I have no reason to disagree with that assessment. There are no recorded instances of accidents in Warwick Lane. Furthermore, the results of a traffic

- survey conducted by the appellant shows that the majority of traffic currently using Warwick Lane does not meet another vehicle or pedestrian.
66. The appeal proposal would add to the volume of vehicles and pedestrians using this part of Warwick Lane, although not all the pedestrians and vehicles accessing or leaving the appeal site would use Warwick Lane, as some would use Shenton Lane to access the town centre.
67. The additional pedestrian flows brought about by the appeal proposal would be around 10 two-way pedestrian journeys along Warwick Lane in the am peak hour and 6 pedestrian journeys in the pm peak hour. In terms of vehicles, the appeal proposal would add 21 vehicles am and 19 pm. These estimates have been agreed by the parties.
68. The Council has also estimated that there will be 38 primary school children, 21 secondary school children and 4 post 16 students generated by the appeal proposal. Whilst these numbers are not in dispute, it appears to me that not all these children (or their parents) would use Warwick Lane to access the schools in the town. Some would inevitably be driven to school, some would use Shenton Lane, and some would be educated elsewhere. Therefore, the numbers represent the maximum estimate of additional children using Warwick Lane and it is unlikely that this number will actually be achieved.
69. In terms of pedestrians in Warwick Lane, following completion of the proposed development, it is agreed that the majority of the proposals would be an improvement for pedestrians over the current situation where no footway exists. The over-runnable strip, whilst being capable of being used by vehicles, would be distinct from the carriageway through the use of a 60mm kerb and different surfacing. Therefore, drivers would know that it was not part of the regular carriageway and pedestrians would know that they were moving on to a different kind of footway.
70. It would also be located at a point on Warwick Lane where vehicles entering from Shenton Lane would readily see the over-runnable area and any vehicle approaching from the northern part of the lane. Moreover, the increase in the radius on the south side of Warwick Lane's junction with Shenton Lane would have reduced the speed of vehicles entering from this direction. This would give more time for the vehicle to wait at the Shenton Lane junction where there is room for two vehicles to pass. Therefore, it would appear to me that the over-runnable area would, more often than not, be used by larger vehicles to assist their passage from Shenton Lane into Warwick Lane. These larger vehicle movements would be significantly less than car movements. However, there would still be good visibility between the vehicles entering Warwick Lane from Shenton Lane and the over-runnable strip and any other vehicle at the northern end of Warwick Lane.
71. I note the Council's concern about the ability of parents to control their children on what would be relatively narrow footways. However, there are narrow footways elsewhere in the town also on routes to schools, and these appear to operate without giving rise to any particular road safety issues. Moreover, the installation of a footway for the majority of this part of Warwick Lane would be an improvement over the existing situation and certainly no worse than other parts of the town centre.

72. Overall whilst the length of the over-runable strip does not meet highway standards I find that the improvements in highway safety brought about by the installation of footways along Warwick Lane, the fact that the over-runable strip will be distinguished from the carriageway itself, the inclusion of speed reduction measures at the junction of Warwick Lane and Shenton Lane and that Warwick Lane will still be relatively lightly trafficked even if the appeal proposal were to be constructed mean that the highway works at Warwick Lane are acceptable in highway safety terms.

Highway policies

73. Policy DM17 of the SADMP relates to highways and transportation. It supports development that seeks to ensure that there is a safe and convenient access for walking and cycling to services and facilities and demonstrate that there is not significant adverse impact upon highway safety. It also seeks to distinguish between all development and those developments that generate significant movements. Requiring the latter to demonstrate that residual cumulative impacts of the development are not severe. Finally, it expects all proposals for new development should reflect the highways design standards set out in the most up to date guidance adopted by the relevant highway authority.
74. I have found above that the development would provide a safe and convenient access by walking and cycling to services and facilities in Market Bosworth. Whilst I have been provided with no evidence on whether the proposal would generate significant movements I do not consider that the proposal would result in residual cumulative impacts which would be severe.
75. In terms of compliance with the design guidance it is clear that this is applied in a flexible way. For example, the LCC are not objecting to other footways on Warwick Lane, despite them being below standard. Therefore, as there is flexibility in the policy I see no reason why the over-runable strip cannot be policy compliant, provided it complies with the other aspects of the policy that relate to highway safety, which I have found.
76. Consequently, I find, for the reasons given above that the appeal proposal complies with this policy of the development plan. I give this compliance neutral weight in this decision.

Other matters

77. At the Inquiry matters relating to the status of the NP and the allocated site off Station Road were discussed. The NP is part of the development plan and has the same status as the other parts. However, the lack of a 5-year supply of deliverable housing sites applies to the whole of the Borough and Market Bosworth cannot be singled out simply because it has an over supply of housing against its targets. Moreover, as was pointed out at the Inquiry the housing numbers in the development plan documents are not caps on numbers. Therefore, whilst I have had regard to the NP in this decision, I have also had regard to the Council's overall lack of a 5-year supply of deliverable housing sites.
78. Reference has been made in the representations received to the effect of the proposal on wildlife in the area and the loss of trees. Whilst the appeal site is currently in agricultural use with hedgerows and trees, both within and surrounding, I have seen no specific evidence that it contains protected trees,

important habitats or species. Therefore, whilst I have had regard to these representations they do not provide sound reasons for rejecting the proposals.

79. I have also seen reference to pollution that might be caused by the appeal proposal, however I have no evidence that it would cause pollution. In any event, should that be the case, it any pollution could be dealt with through the imposition of appropriate planning conditions.

Planning balance

80. Given my findings about the effects of the appeal proposal on the significance of the CA, as set out above at paragraph (45), I consider that applying the Policies of the Framework for protected areas or assets of particular importance provides a clear reason for refusing the proposed development. Therefore, the balance in this case is the 'normal balance', set out at paragraph 2 of the Framework, and not the so-called tilted balance required by paragraph 11 d) ii of the Framework.
81. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites, which is currently agreed at 4.89 years. The appeal proposal would lead to the delivery of 125 houses, and it appears from the evidence presented that they would be delivered relatively quickly. I therefore give substantial weight to this benefit.
82. The Council has accepted that the need for affordable housing in the Borough is 'desperate'. Evidence has shown a consistent under delivery in affordable housing in the Borough and that the need is growing. The appeal proposal would deliver around 40% affordable housing. As a result, I give this benefit substantial weight.
83. There would be economic benefits of the proposal during the construction phase and as a result of more people using the village facilities once the development was completed. This is a benefit that would apply to most developments and the economic benefit of the construction phase would be transient. I therefore give this benefit moderate weight.
84. The signed planning obligation would lead to some wider benefits to local people through contributions to the library which, whilst addressing the extra demands on the service would also be available to the wider community. However, any additional benefit to the wider community would be marginal. I give this benefit limited weight.
85. The appeal proposal also would provide Green Infrastructure (GI), a children's play area and biodiversity net gain (BNG). These are standard provisions for a development of this nature. The children's play area, whilst beneficial to the children living on the site would have little benefit to children living elsewhere in the town due to its location and access. The GI whilst important, especially in helping to provide a BNG, would be provided in a town which is already well served by GI. The BNG would appeared to be capable of being provided at a level above that currently required by national policy. Overall, I give these benefits limited weight in this decision.
86. Other contributions made through the planning obligation would simply deal with the extra demand for services brought about by the appeal proposal and therefore give them neutral weight.

87. I have found, for the reasons given above, that the appeal proposal would harm the character and appearance of the part of Market Bosworth within which it is located. Furthermore, the proposed highway works, especially between the appeal site and Warwick Lane and in Warwick Lane itself, would significantly harm the character and appearance of Shenton Lane and Warwick Lane. I give the harm that the off-site highway works would cause to the character and appearance of Shenton and Warwick Lane substantial weight.
88. The proposal would harm the setting and significance of the CA brought about by the proposed works on Shenton and Warwick Lane for the reasons set out above. Policy set out in the Framework requires me to give great weight to the assets conservation. I therefore give this harm substantial weight.
89. In terms of Policy harm the proposal would harm the purpose of Policy DM4 of the SADMP and Policy CE5 of the NP. Both of these policies seek to restrict development outside the settlement boundaries of the town. Given the current iteration of the Framework and the consistency of these policies with it, and the position in the Borough with regard to a 5-year supply of deliverable housing sites I give this policy harm moderate weight.
90. Policies DM11 and DM12 deal with the protection of heritage assets and are broadly consistent with the Framework. I have found that the appeal proposal would harm the setting of the CA and is therefore in conflict with these Policies for reasons set out above. Given the degree of consistency between these Policies and the Framework I give this policy harm substantial weight.
91. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. I have found that the appeal proposal is in conflict with Policies DM4, CE5 and DM11 and 12 of the development plan. In particular I have found that the proposal would harm the setting and significance of the CA and the character and appearance of the approach to the town. Whilst I have given substantial weight to the other material considerations relating to the delivery of market and affordable housing I find that these are insufficient to outweigh the harm I have identified, especially where I am required to give great weight to the conservation of a heritage asset.

Conclusion

92. I therefore find that having regard to the development plan as whole that the appeal is dismissed .

Peter Mark Sturgess

INSPECTOR

APPEARANCES

FOR THE COUNCIL:

Hugh Richards

Barrister

He called:

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Team Leader Development Management,
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⁴ Participated in the RTS only.

⁵ Participated in the RTS only.

⁶ Participated in the RTS only.

⁷ Participated in the RTS only.

INTERESTED PARTIES WHO SPOKE AT THE INQUIRY

Councillor Maureen Cook	Local Councillor
Nigel Brewster	Local Resident
Janette Watson	Local Resident
Mark Burton	Local Resident
Nigel Palmer	Market Bosworth Society/Local Resident
Jes Pepper	Local Resident
Michelle Clement	Local Resident

Richborough

DOCUMENT SUBMITTED AT THE INQUIRY

- ID1 Opening on behalf of the Council.
- ID2 Opening on Behalf of Market Bosworth Parish Council (R6 Party)
- ID3 Opening on Behalf of the Appellant
- ID4 Market Bosworth Parish Council – Response to planning applications, Ref 22/00167/OUT (Re-consultation)
- ID5 Completed Unilateral Undertaking
- ID6 CiL Compliance Statement
- ID7 Signed Planning Obligation
- ID8 Transcript of Statement – Nigel Palmer
- ID9 Transcript of Statement - Janette Watson
- ID10 Transcript of Statement – Mark Burton
- ID11 Transcript of Statement – Cllr Maureen Cook
- ID12 Transcript of Statement – Nigel Brewster
- ID13 Council Closing
- ID14 Parish Council Closing
- ID15 Appellant Closing