



Appeal Decision

Hearing held on 27 June 2023

Site visit made on 28 June 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Appeal Ref: APP/X2410/W/22/3310932

Loughborough Road, Burton on the Wolds, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Jelson Homes Limited against the decision of Charnwood Borough Council.
- The application Ref P/21/1105/2, dated 11 May 2021, was refused by notice dated 26 August 2022.
- The development proposed is outline application for residential development of 56 dwellings (Class C3), public open space and associated works (all matters reserved except for access).

Decision

1. The appeal is allowed and outline planning permission is granted for residential development of 56 dwellings (Class C3), public open space and associated works (all matters reserved except for access) at Loughborough Road, Burton on the Wolds, Leicestershire in accordance with the terms of the application, Ref P/21/1105/2, dated 11 May 2021, subject to the conditions listed at the end of this decision.

Preliminary Matters

2. In considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I shall have regard to this statutory duty in my consideration of this appeal.
3. A planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (the legal agreement) is before me. This is dated 17 July 2023 and is signed by the appellant, relevant landowners, the Council, and the County Council. The legal agreement secures the provision of affordable housing and various contributions related to open space, allotments, outdoor sports, young peoples' provision, education, libraries, travel packs and bus passes, and a Traffic Regulation Order. I shall return to the legal agreement later.
4. A Landuse Parameters Plan¹ (the Parameters Plan) was submitted by the appellant in advance of the Hearing. This is a new plan not previously considered by the Council at planning application stage. However, as the

¹ ref: 5655-L-AP3

Parameters Plan is consistent with the extent and positioning of residential development as indicatively depicted upon the Illustrative Masterplan², I am content that no party with a potential interest in the outcome of the appeal is prejudiced by me accepting it for potential determination purposes. I shall return to the Parameters Plan later.

5. An amended access plan³, produced by the appellant, was appended to the Statement of Common Ground and submitted in advance of the Hearing. This was later resubmitted in a revised format⁴ (the revised access plan) to reflect the full range of content of the original access drawing⁵ determined by the Council when it resolved to refuse planning permission. The amendments that have been made relate purely to the delineation/positioning of vehicular visibility splays. As was discussed at the Hearing, the motivation for these changes is linked to a desire to remove/reduce the need for associated works to existing boundary walls and vegetation situated along the Loughborough Road frontage of the site. The splays, as depicted upon the revised access plan and taken in both directions from the site's access, now incorporate short offsets from Loughborough Road's kerb line at the splays' points of termination.
6. As no alterations have been made to the physical composition of the access or its junction with the highway, and the changes made are minor in any event, I am content that no party with a potential interest in the outcome of the appeal is prejudiced by me accepting the revised access plan for determination purposes. This includes the Highway Authority, whom, I note, were party to a short exchange of written correspondence with the appellant shortly in advance of the Hearing.
7. The Council submitted, at the Hearing, a plan, which was later amended following the event, to assist in illustrating the splay design differences when the access plan determined at application stage and the revised access plan are compared. For the avoidance of doubt, I am able to accept the amended version of the Council's comparison plan for information purposes.
8. An emerging Local Plan (the ELP) has reached examination stage. Indeed, a series of hearing sessions have already been held. The latest available correspondence⁶ from the examining Inspectors indicates that updates in relation to transport and viability matters are required followed by a period of consultation (including upon a limited number of additional specified matters) in advance of anticipated formal consultation upon main modifications.
9. In lieu of the consultation due to occur and the associated issues that could arise, it is apparent that the examining Inspectors have made no commitment at this stage as regards any overall conclusions upon the ELP's soundness. Indeed, there is no certainty that further hearing sessions shall not be required in advance of formal adoption. Thus, whilst it is my understanding from discussions at the Hearing that the Council is making progress in line with the examining Inspectors' set out expectations, the ELP and its emerging policies are not currently at an advanced enough stage to attract anything more than limited weight. I shall determine the appeal on this basis.

² ref: 5655-L-08 C

³ ref: PRJ01-TTE-00-ZZ-DR-H-0006B

⁴ ref: PRJ01-TTE-00-ZZ-DR-O-0007P02

⁵ ref: PRJ01-TTE-00-ZZ-DR-O-0007P01

⁶ dated 23 May 2023

10. The potential for future revisions to occur to the National Planning Policy Framework (July 2021) (the Framework) was discussed at the Hearing. The main parties agreed that no weight can be afforded to any draft version of the policy document currently in circulation and/or made available for the purposes of consultation. I have no reason to disagree and shall consider the appeal on this basis.

Main Issues

11. The main issues are:

- The effect of the proposal upon the character and appearance of the area, having regard to the scheme's landscape and visual effects;
- The effect of the proposal upon the settings and thereby the significance of relevant heritage assets, including the Grade II listed 'Prestwold Hall Registered Park and Gardens' (the RPG) and the Grade II listed building '32-34, Seymour Road' (Field House); and
- Whether or not the appeal site represents an appropriate location for housing, having particular regard to the accessibility of facilities and services and any relevant provisions of the development plan.

Reasons

Character and appearance – landscape and visual effects

12. The site is located to the western edge of Burton on the Wolds. It is comprised of an arable field that is often well-planted to its perimeter and located on the southern side of a gentle valley landscape. Indeed, the land level drops from the southern end of the site to where Burton Brook delineates the site's northern edge. Despite the presence of residential development to the east and southeast, much of the site's surroundings are made up of adjoining parcels of arable land in addition to a belt of woodland (Old Wood) that falls within the RPG and skirts the site's western edge.
13. The site is located within the Leicestershire and Nottinghamshire Wolds National Character Area, the characteristics of which include a range of rolling hills, narrow river valleys, and dominant agricultural land uses. At Borough level, the site falls within the Wolds Landscape Character Area (the WLCA) as described within the Charnwood Landscape Character Assessment (July 2012) (the CLCA). The key characteristics of which include a large-scale rolling landscape with exposed ridges, open countryside with mixed farming, sheltered valleys and villages largely contained within the landscape setting. The appeal site and its immediate surroundings, notwithstanding the heavily wooded influences that avail, exhibit a landscape character that reflects the typical characteristics of the character areas within which the site falls.
14. The strength of landscape character and the condition of the landscape across the WLCA are adjudged as 'moderate' through the CLCA. This grading is influenced by the presence of some discordant elements, emanating, at least in part, from agricultural intensification and the neglect or loss of some hedgerows and hedgerow trees. The site itself, when assessed in conjunction with an adjacent site to the south via the Landscape Sensitivity Assessment of SHLAA Sites (March 2019) has been adjudged to have an overall landscape

sensitivity score of 'moderate' in the development scenario of 2-3 storey residential housing.

15. To my mind, having read and listened to the respective views of the different parties, the site and its immediate surroundings can be fairly considered to have a medium landscape value. Notwithstanding the undoubted strong contribution the site makes to the rural setting of the village, it does not display out-of-the-ordinary scenic qualities and can be experienced in the context of built influences to the east. Indeed, an especially deep or well-defined landscaped edge to the settlement was not observable upon inspection. Further, the well-enclosed nature of the site in general terms considerably limits the range and extent of the site's visual envelope.
16. The proposal would not necessitate the widespread removal of existing established planting and the typically well-vegetated nature of the site's existing perimeter would play an important role in promoting visual containment. Indeed, whilst the creation of the site's access as well as anticipated new footway links would involve the punctuation of the tree belt that runs along the site's southern edge, the extent of tree removals/works realistically required would, when considered in the context of the site's southern boundary taken as a whole, be limited. This is even when noting the implications of providing and subsequently retaining vehicular visibility splays to either side of the site's access, which would not necessitate extensive works, and the intention to install new streetlighting. Although some uninterrupted views of the proposed development would materialise from Loughborough Road, these would avail from only a limited range of close by vantage points.
17. The development's most pertinent visual effects would be from the various interlinking public rights of way⁷ that run along, or in proximity to, the site's northern edge. Indeed, from some stretches of footpath and bridleway no intervening buffers of established planting would be in existence to assist in softening views. Of further relevance, it is my understanding that the public right of way network local to the site is popular with the local community due, in part, to the distinctly rural environment and sense of tranquillity that is offered. This is not inconsistent with my own experiences upon inspection.
18. Policy WV1 of the Wold Villages Neighbourhood Plan (June 2021) (the WVNP) requires that, among other provisions, development proposals must demonstrate that they would safeguard and, where appropriate, enhance the rural character of a number of identified important views and vistas. These include from the end of Seymour Road at the northeast corner of the site, from where public footpaths meet to the northern edge of the site, and from the opposite side of the river valley (beyond Burton Brook) where southward views of the site and the adjoining settlement edge are available.
19. The scheme would inevitably fail to fully safeguard the rural character of views available from a range of footpath and bridleway vantage points. This is not least due to the extent of new residential development that is proposed upon open farmland situated in proximity to public rights of way. For example, upon my inspection from Footpath H92A to the opposite northern side of Burton Brook, the lands that comprise the appeal site could be clearly experienced as an undeveloped rising valley side. Moreover, the development would materially erode the rurality of views available from a variety of close by

⁷ Footpaths H92A and H99A, and Bridleway H106

locations upon the public right of way network, including those recognised within the WVNP as offering important views and vistas, and, to some degree, result in a reduced sense of tranquillity.

20. Even so, as indicated upon the Parameters Plan, it is intended that residential development be stepped away from the northern edge of the site. This would ensure a not insignificant degree of separation from the public right of way network and offer a genuine opportunity to meaningfully soft landscape the intervening space. It is also relevant that the western edge of built development would be stepped in from the site's edge to loosely correspond with the western extent of residential development off Springfield Close to the south. Moreover, the spaciousness of the Open Space/Green Infrastructure Area intended, notwithstanding its anticipated recreational capacity, would promote that the scheme be experienced as a somewhat moderate and contained excursion into the open countryside. This would be particularly so once new on-site planting establishes and matures.
21. For the above reasons, unacceptably significant adverse landscape or visual impacts would be avoided. However, it is inevitable that the proposal, which involves the loss of agricultural land and considerable development in a somewhat tranquil edge-of-settlement location, would cause some harm, at a moderate level, to the character and appearance of the site and its immediate surroundings. There is thus conflict with Policy CS11 of the Charnwood Local Plan 2011 to 2028 – Core Strategy (November 2015) (the Core Strategy) and Policy WV1 of the WVNP, in so far as these policies require new developments to protect landscape character, to reinforce sense of place and local distinctiveness, and to mitigate its impact on tranquillity.

Heritage assets

22. The Grade I listed Prestwold Hall (the Hall) stands westward from the site and is surrounded by associated formal gardens and often well-planted parkland that comprises the RPG. The significance and special interest of the Hall is drawn, in-part, from its age, grand architectural qualities and surviving stone-led palette of traditional building materials. This significance and special interest is further underpinned by the building's historic function as a high status country house, visually and functionally ascendant over a wider parkland estate.
23. Owing to the separation distance involved and the enclosed nature of the parkland estate, contributed to by the depth and established nature of its wooded eastern perimeter, there is no realistic prospect of intervisibility between the Hall and the appeal site. Moreover, it is common ground between the main parties that the site makes no contribution to the setting of the Hall. Following my own inspection and comprehensive consideration of all related evidence that is before me, I have no reason to arrive at a different finding. It is similarly the case that the site makes no material contribution to the setting of the Grade II* listed St Andrews Church, which sits a short distance to the west of the Hall.
24. The significance of the RPG as a designated heritage asset is drawn, in part, from its inherent connection to the Hall, its rural origins, and its extensive expanses of undulating parkland. This significance is further underpinned by historical associations and the extensiveness of its planted areas that came into fruition, according to the statutory list description, with the intention of leaving

the Hall bosomed in calm serenity. The site borders the RPG's eastern edge and makes a positive contribution to its significance through providing an open and rural landscape as part of its setting.

25. The scheme, as depicted upon the indicative Illustrative Masterplan, is centred upon an intention to locate the proposed dwellings adjacent to the site's southern and eastern boundaries so as to adjoin or sit close to existing development that comprises the built-up extent of the village. Accordingly, a swathe of public open space to incorporate planting/green infrastructure, surface water drainage infrastructure, informal footpath links and a locally equipped area for play is indicatively envisaged to wrap around the western and northern edges of the area earmarked for housing development. This approach promotes that a sense of separation, albeit diminished in extent, would remain experienceable between the built-up part of the village and the Prestwold estate.
26. I have noted the Council's suggestions that some intervisibility prevails between the appeal site and estate parkland situated to the west of Old Wood, and that such opportunities for views are most prevalent during winter months. Indeed, there are photographs contained within the Council's Heritage Statement of Case that were taken from unspecified locations within the RPG and that illustrate chinks of light able to permeate the woodland.
27. However, following my own inspection, albeit undertaken during summer months, I was able to fully appreciate the depth and long-established nature of the area of woodland in question. When factoring in the intention to set residential development away from the eastern edge of the RPG, I do not consider that any significant glimpsed views of modern built development would realistically be possible to obtain from open parkland areas of the RPG, even during winter months. To offer further assurances in this regard, the Illustrative Masterplan indicates extensive opportunities for further planting along the site's western edge to bolster the screening that already applies.
28. I acknowledge reference to views of the site becoming increasingly apparent as one emerges from Old Wood upon approach to the site's north-western corner. However, the envisaged placement of housing development on the site would guard against over-prominent built influences materialising upon emergence from Old Wood. Thus, all related matters considered, the scheme would not have an adverse or harmful effect upon the RPG's setting.
29. The Grade II listed Field House, which dates to the late 18th-century and is now sub-divided into two separate dwellings, is located adjacent to the northeast corner of the site. Its significance and special interest as a designated heritage asset is drawn, in part, from its age, its historic integrity, and its palette of traditional external-facing materials that include red brick, an array of timber-framed windows, and a slate roof. Significance and special interest is further underpinned by the open and agricultural nature of neighbouring lands to the west. This promotes the availability of views of the asset's featureful west-facing elevation from nearby public rights of way and supports that its rural origins are readily understood. Moreover, the appeal site, most particularly its northern portion, comprises an important part of Field House's setting and makes a valuable contribution to its significance as a designated heritage asset.
30. The proposal would result in an erosion of the rurality of Field House's setting. Indeed, it is inevitable that available eastward views would be adversely

influenced by the introduction of modern housing development to the field that sits immediately to the west of Field House. Even so, the severity of such adverse effects would be tempered by the setback positioning of built development relative to the site's northern boundary. Such an arrangement would guard against the concealment of views from publicly accessible vantage points to the west and ensure that a meaningful degree of openness would continue to influence Field House's immediate and wider setting. This is even when acknowledging that the northern edge of new residential development, as depicted upon the Parameter Plan, would slightly overlap the southern edge of Field House's well-defined domestic curtilage.

31. In the context just described, whilst no harm would materialise to the heritage significance of the RPG, some low-level harm would be caused to the significance and special interest of the Grade II listed Field House by virtue of development within its setting. The scheme thus conflicts with Policy CS14 of the Core Strategy in so far as it requires development proposals to protect heritage assets and their settings. In the terms of the Framework, I would qualify that the degree of harm to Field House as a designated heritage asset would be less than substantial. Paragraph 202 of the Framework requires less than substantial harm be outweighed by public benefits, which I shall return to in my Heritage Balance below.

Whether or not an appropriate location for housing – facilities and services

32. Policy CS1 of the Core Strategy sets out a Development Strategy to make provision for a least 13,940 new homes between 2011 and 2028. This includes the provision of at least 500 new homes within the identified settlement boundaries of Other Settlements. Burton on the Wolds is designated as an Other Settlement and the appeal site sits outside, although adjacent to, its identified settlement boundary.
33. Whilst the appellant has suggested that there is nothing within Policy CS1 to explicitly state development on the edge of Other Settlements shall not be allowed, there is equally nothing within the policy to indicate support for housing development situated beyond the defined edges of such settlements. This lack of support, by virtue of the precise wording of the policy, does not, I note, apply at Service Centres (the next level up of the Borough's settlement hierarchy). It is thus my view that the proposal, by virtue of the site's location outside of the village's settlement boundary, conflicts with Policy CS1.
34. Similarly, there is identifiable conflict with Policy WV11 of the WVPN. This policy sets out that, outside of the Limits to Development for Burton on the Wolds, permission for housing development will be limited to specific types of development. These development types do not include market housing with unrestricted occupancy, which is the primary focus of the proposal before me.
35. Consistent with the Council's first reason for refusing planning permission, it has been suggested that the consequence of conflict with Policies CS1 and WV11 would be to allow growth in a location that is served by only a narrow range of facilities and services. This would, it has been asserted, lead to a reliance on travel outside of the village to meet many everyday needs, with a high likelihood of such trips being undertaken by private car.
36. Other Settlements typically contain some facilities and services capable of serving some of the day to day needs of the people who live there. Burton on

the Wolds is reflective of this categorisation. Its facilities and services include a primary school, a convenience store associated with a petrol filling station, a public house, a village hall, and a recreation ground. These various facilities and services are situated realistically walkable and cyclable distances from the site and the relevant routes are served by existing footway, albeit of somewhat narrow width in places.

37. Even so, it is inevitable that travel outside of the village would be required by future occupiers of the development to satisfy their full day-to-day needs, including, for example, to access places of work or secondary education. Given the nature and distances of the journeys involved, it is unlikely that future occupiers would choose to travel to different settlements either on foot or by cycle. Furthermore, whilst there is a relatively regular bus service that connects the village to various other settlements that include the towns of Loughborough and Melton Mowbray, there are service limitations (including no Sunday or Bank Holiday services and restricted evening operations) that would be likely to lead to future occupiers being unable to conveniently depend on this bus service for the purposes of satisfying their full day-to-day needs.
38. However, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and states that this should be taken into account in decision-making. Indeed, the bus service, notwithstanding its limitations, would still provide future occupiers of the proposed development with a genuine alternative option to private car travel should they desire to pursue it. Further, any suggestion made that this bus service is likely to soon cease operations has not been clearly and robustly substantiated. It is also relevant that a range of facilities and services are walkable from the site, which would further promote a sizeable proportion of journeys being undertaken by means other than private motor vehicle.
39. All related matters considered, I find that the proposal would cause some harm, albeit limited in extent, by virtue of the site not representing an appropriate location for housing having particular regard to access to surrounding facilities and services and the relevant provisions of the development plan. The scheme conflicts with Policies CS1 and CS17 of the Core Strategy and Policy WV11 of the WVNP in so far as these policies seek to direct development to the most sustainable locations and to achieve a 6% shift from travel by private car to walking, cycling and public transport.

Other Matters

40. Policy WV7 of the WVNP relates to Local Heritage Assets and requires that the need for (or public benefit of) development proposals that affect any of a specified list of local heritage assets and their settings is balanced against the scale of any harm or loss of heritage significance caused. Perimeter brick walls to the Prestwold Park estate are listed as one such local heritage asset. Nevertheless, on the basis that I have accepted the revised access plan for determination purposes, the main parties agree that the scheme would have no adverse impact upon these perimeter brick walls. I have no reason to disagree. Policy WV7 is thus of little relevance to my considerations.
41. I am aware that, in recent times, planning permission has been granted for other major housing development to the edges of Burton on the Wolds. This includes for up to 70 dwellings at land off Melton Road and for up to 60 units at the former Sturdee Poultry Farm off Sowters Lane. I have also been made

aware of a consented conversion scheme at a close by Business Park that is anticipated to result in the creation of in excess of 90 flats. Nevertheless, it must be noted that Policy CS1 of the Core Strategy does not place a ceiling or cap on the delivery of housing at Other Settlements. Indeed, the scheme would not prejudice the Council's current Development Strategy and, in any event, must be considered upon its own individual merits in accordance with the specific site and case circumstances that avail. Moreover, in light of the various contributions secured via the legal agreement, as discussed in more detail below, I am satisfied that the village's infrastructure would not be unacceptably impacted upon or overwhelmed.

42. It has been suggested that health services cannot suitably handle additional pressure from a further influx of new residents. However, with specific respect to the proposal before me, it has not been clearly demonstrated that any effects upon local health services would be so significant to generate a requirement for mitigation by way of planning obligation. Moreover, I have seen no request for (a) contribution(s) from the relevant local health authority (or similar).
43. I have noted various objections raised by interested parties in a highway impact/safety sense. These objections include with specific regard to highway capacity, traffic speeds, the width of the footway that connects the site to the village, the propensity for heavy goods vehicles to use Loughborough Road, a history of incidents close to the site, and the intended pedestrian crossing arrangements. However, the appellant has submitted a detailed Transport Statement that incorporates trip generation and capacity assessment exercises as well as a Stage 1 Road Safety Audit. It is also noteworthy that the proposal involves the installation of a fit-for-purpose access junction and an extension to the existing 30mph speed limit that applies along Loughborough Road.
44. Moreover, the Highway Authority (the HA) has, following seemingly detailed and protracted liaison with the appellant, raised no objection to the proposal subject to relevant contributions/works being secured. This is a matter of importance as it is the HA that is responsible for the safety of users of the local highway network. I note that the HA has indicated acceptance to trip generation forecasts, that collision records do not suggest that the proposal would exacerbate an ongoing highway safety issue, that appropriate visibility splays can be achieved in lieu of speed survey data collected, and that the provision of a pedestrian crossing to the southern side of Loughborough Road where the footway widens is welcomed.
45. Following my own inspection, notwithstanding the changing levels and alignments that apply to Loughborough Road, I am satisfied that suitable levels of visibility would apply. This includes for pedestrians at the intended crossing point, even when acknowledging its potential to be utilised by vulnerable or disabled persons. Moreover, notwithstanding any argument made with respect to pedestrian desire-lines and the potential for additional crossings to be made by individuals to reach facilities/destinations within the village, there is no clear reason for me to arrive at different conclusions to the HA. I am satisfied that highway and pedestrian safety would not be prejudiced and that no severe impact upon the road network would be caused by the scheme. I also note here that any barrier to be installed in association with the pedestrian crossing point would be fairly anticipated to be of non-solid specification and to have a low-key presence in the streetscene.

46. Whilst precise details of layout and scale would only become apparent at reserved matters stage, I am content that it would be possible to design a detailed development proposal such that harmful effects (including by virtue of any undue loss of privacy, outlook or light) upon the living conditions of existing neighbouring occupiers to the east would be avoided. This is not least due to the ample distances of separation from the site's eastern boundary that would be achievable.

Legal Agreement

47. The legal agreement contains various provisions. It secures the on-site provision of not less than 40% affordable housing in accordance with the requirements of Policy CS3 of the Core Strategy. A mix of affordable rented and intermediate dwellings agreed with the Council is secured. The legal agreement builds in provisions for a calculated contribution to alternatively be paid to the Council, but only once reasonable endeavours to enter into a sale and purchase agreement with a Registered Provider have been robustly demonstrated following various steps set out in the legal agreement.
48. The provision of Open Space Land, to either be transferred to the Council or managed and maintained by a Management Company, is justified in accordance with the requirements and relevant standards set out at Policy CS15 of the Core Strategy. Also, in accordance with Policy CS15, a Young Peoples Contribution is justified (if no such provision comes forward as part of the Open Space Land), as are an Outdoor Sports Contribution to fund improvements in the vicinity of the development and an Allotments Contribution to fund the creation of allotment provision at Burton on the Wolds.
49. Various education contributions are secured, towards Primary Education, Secondary Education, and Post-16 Education. Each of these is intended to go towards the improvement, remodelling or enhancement of existing facilities at, respectively, Burton on the Wolds Primary School, Humphrey Perkins School, and Rawlins Academy, and has been calculated in accordance with standard formulae to ensure proportionate contributions.
50. The County Council, as Education Authority, has confirmed⁸ that, should the development go ahead, a deficit of pupil spaces would exist at each of these establishments. As such, I am content that the contributions are justified. I note here that each definition (of Primary Education, Secondary Education, and Post-16 Education) as set out in the legal agreement incorporates some flexibility for contributions to be diverted to any other school, but only where that other establishment would accommodate pupils from this development. On this basis, I am satisfied that the relevant tests, as set out at Paragraph 57 of the Framework, are passed.
51. A Library Contribution is secured towards improvements to Barrow Library (the nearest library to the site) and its facilities in accordance with guidance issued by the Department of Culture Media and Sport and against locally based costings. I am content that the contribution is justified.
52. A Travel Pack Contribution to promote sustainable travel in the area and a Bus Pass Contribution offering two six-month bus passes per dwelling have emanated from costed requests made by the County Council as Highway

⁸ through correspondence dated 13 April 2023

Authority. I am content that the contributions are proportionate and justified. Similarly, a Traffic Regulation Order Contribution relating to the extension of an existing 30mph speed zone and the relocation of associated signage is justified.

53. I am satisfied that the various contributions and provisions secured through the legal agreement are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind. I am satisfied too that the monitoring fees secured are proportionate and reflect the actual costs of monitoring.
54. The Council's covenants include a requirement for the Allotments Contribution, the Outdoor Sports Contribution and the Young Peoples Contribution (if applicable) to be repaid should they not have been spent or committed within a defined timeframe post receipt. In accordance with the terms of the legal agreement, that defined timeframe, of either five or ten years, is open to be determined through this decision letter. Having heard the views of different parties at the Hearing and considered the specific nature of the relevant contributions, I see no clear justification to put in place a timeframe exceeding five years. I thus determine that a five-year period for the Council to spend or commit received contributions is reasonable and appropriate.

Heritage Balance

55. I have identified above that the scheme would cause a low level of less than substantial harm to the significance of the Grade II listed Field House through development within its setting. It must be noted that even less than substantial harm to a designated heritage asset carries considerable importance and weight.
56. In terms of public benefits, the proposal involves the construction of a considerable number of additional units of market housing. This is within a Borough where the latest published⁹ position of the Council is a 4.27-year supply of deliverable housing sites, a shortfall when compared to the minimum five-year supply threshold endorsed by the Framework. In such circumstances, the additional market dwellings would make a meaningful and important contribution to the supply-deficit and attract significant weight as a scheme benefit.
57. It has been suggested by the Council that, owing to the outline nature of the scheme, it could be some time before a tangible contribution to the housing supply deficit is realised from this site such that, it has been asserted, the weight given to this benefit of the proposal should be reduced. However, especially as the time limit for the submission of reserved matters could be fairly limited to two years to promote expedient implementation, I see little merit in the stance taken by the Council in this regard. Indeed, it would be realistic to expect a supply contribution to materialise swiftly should planning permission be granted.
58. A policy-compliant level of affordable housing also constitutes a scheme benefit that attracts significant weight. Indeed, the delivery of affordable housing at this site would promote the provision of strong well-balanced communities and a good standard of housing for all.

⁹ 2 June 2023

59. Other benefits include the creation of jobs and investment in the local economy during the construction phase, which, whilst time-limited, are benefits that attract moderate weight given the scale of development under consideration. I also attach moderate weight to the anticipated post-occupation contribution to the local economy and local community facilities given the not insignificant number of new residents to be housed. The provision of publicly accessible open space and the delivery of biodiversity net-gain are other public benefits that attract meaningful weight. This is due to the sizeable nature of the Open Space/Green Infrastructure Land to be provided and its considerable potential to support recreation and new planting.
60. Thus, the scheme's benefits would be significant when assessed in cumulative terms and collectively attract substantial weight. In my judgement, in accordance with the relevant policy test contained within the Framework, the proposal's public benefits would outweigh the less than substantial harm I have identified would be caused to the heritage significance of Field House.

Overall Planning Balance

61. As the Council cannot currently demonstrate a five-year supply of deliverable housing sites, the most important policies for determining the scheme are deemed out-of-date. Further, in light of my findings immediately above, the presumption in favour of sustainable development is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
62. I have found conflict with Policy CS1 of the Core Strategy, which sets out a Development Strategy that seeks to direct development to the most sustainable locations. Whilst this broad aspiration is not inconsistent with the Framework, the housing requirement upon which it is based has been superseded by locally assessed housing need calculated in accordance with the Standard Method. Thus, I cannot find Policy CS1, which is predicated upon settlement boundaries that were defined in accordance with a now outdated housing requirement, to be consistent with the Framework. Moreover, when factoring in the immediate proximity of the site to the village's settlement boundary and the walkability of the village's core, I attach limited weight to the conflict I have identified with this policy and to any associated harm.
63. Similarly, the WVNP is not based upon an up-to-date assessment of housing need. Further, it does not contain housing allocations to meet an identified housing requirement. On this basis, I attach limited weight to the conflict I have identified with Policy WV11 of the WVNP and to any associated harm. Moreover, the site's location outside of any defined settlement boundary or defined Limits to Development is not determinative to the outcome of this appeal.
64. I have identified conflict with Policy CS17 of the Core Strategy, which is consistent with the Framework in so far as it promotes the provision of sustainable travel opportunities. For reasons that I have already set out above, the proposal would cause some limited harm by virtue of the site not representing an appropriate location for housing having particular regard to access to surrounding facilities and services.

65. I have identified conflict with Policy CS11 of the Core Strategy and Policy WV1 of the WVNP. Both are consistent with the Framework in the sense that it seeks to ensure developments are sympathetic to local character, including the surrounding built environment and landscape setting. For reasons that I have already set out above, the proposal would cause moderate harm to the character and appearance of the area having regard to the scheme's landscape and visual effects.
66. I have also identified conflict with Policy CS14 of the Core Strategy, which is consistent with the Framework in so far as it seeks to conserve and enhance the historic environment. Whilst I ultimately identified a low level of less than substantial harm to the heritage significance of a single designated asset, it must be noted that less than substantial harm to a designated heritage asset still carries considerable importance and weight. I apportion commensurate weight to this identified harm.
67. The proposal would result in the loss of best and most versatile agricultural land, and Policy CS16 of the Core Strategy sets out that support shall be given to new development that protects environmental resources including most versatile agricultural land. This is consistent with the Framework's recognition that best and most versatile agricultural land offers economic and other benefits. However, I am satisfied that the proposal would not have a noticeable or significant impact upon the overall amount of best and most versatile agricultural land available across the Borough. As such, I attach limited weight to any identifiable conflict with Policy CS16.
68. Taking all the identified harms and policy conflicts together, I consider that they weigh to a considerable extent against the proposed development.
69. The benefits of the scheme (as discussed in the Heritage Balance above) attract substantial weight in favour of the proposal. When applying the requirements of Paragraph 11d of the Framework, I conclude that the adverse impacts identified (including less than substantial harm to the heritage significance of Field House) and the associated policy conflicts, would not, even when considered in cumulative terms, significantly and demonstrably outweigh the proposal's substantial benefits when assessed against the Framework's policies taken as a whole. Thus, the presumption in favour of sustainable development, as set out in the Framework, applies.
70. Notwithstanding conflicts with identified Policies of the Core Strategy and WVNP, there are material considerations, including the Framework, that indicate that the proposal should be determined otherwise than in accordance with the development plan in this case.

Conditions

71. In advance of the Hearing, a list of draft planning conditions was worked upon by the main parties to this appeal. Following further discussion at the Hearing, I have considered the conditions against advice in the Framework and Planning Practice Guidance. As a result, I have made amendments to some of them for consistency and clarity purposes and have omitted others. Pre-commencement conditions have only been applied where agreed to by the appellant and where necessary to guide initial works on site.

72. In the interests of promoting the expedient delivery of housing whilst not prejudicing the availability of a reasonable period to prepare and submit detailed development proposals for the site, I have imposed a two-year time limit for reserved matters applications to be submitted.
73. In the interests of certainty and ensuring that built development is positioned away from the site's northern and western boundaries, a condition confirming the approved plans is necessary. In addition to a red line location plan and the revised access drawing, I have included the Parameters Plan. Concerns were raised at the Hearing that strict compliance with the limits to residential development, as depicted on the Parameters Plan, could ultimately prove unachievable/undesirable due to the number of dwellings proposed. I also note that the submitted Illustrative Masterplan would appear to indicate a slightly lower number of units than the 56 under consideration. In this context, it appears reasonable to require development to take place in broad (rather than strict) conformity with the Parameters Plan. For the avoidance of doubt, I am suitably content that, at most, only minor excursions beyond the limits to residential development could be required in the interests of achieving a well-designed place and a high standard of amenity for future occupiers. On this basis, the visions of the Illustrative Masterplan would not be undermined.
74. In the interests of protecting the character and appearance of the area and the significance of relevant designated heritage assets, conditions are reasonable and necessary that stipulate the required content of future landscaping details, ground levels and finished floor levels, and a requirement for a scheme of tree/hedge protection to be submitted and implemented during the construction phase. The levels condition would also be in the interests of protecting neighbouring living conditions.
75. For the avoidance of doubt, on the basis that open space provisions are secured in detailed terms through the legal agreement, a condition setting out minimum requirements for different open space typologies is not reasonable nor necessary to secure via condition. Further, it is not necessary nor reasonable to impose a condition requiring, where applicable, existing boundary hedges and trees to be retained and maintained at all times. This is because confirmation of intended planting removals would be secured at reserved matters stage, tree/hedge protection would be installed during the construction phase, and as indicated by the appellant at the Hearing, the site's existing treed areas are anticipated to be contained within the Open Space Land to be subject to future management and maintenance in accordance with the terms of the legal agreement.
76. In the interests of promoting habitat and biodiversity enhancements and safeguarding protected species, conditions are reasonable and necessary to secure the submission of an updated Biodiversity Impact Assessment at detailed planning stage, the provision of an Ecological Mitigation Strategy (to include a lighting strategy), and the submission of a landscape and habitat management plan. Such a management plan, to secure long term management responsibilities, would also be in the interests of protecting the character and appearance of the area. Similarly, in the interests of protecting the character and appearance of the area, conditions are reasonable and necessary that secure full details of the external-facing materials and architectural details, such as window reveals, cills and lintels and rainwater goods, to be installed.

77. In the interests of highway safety, conditions are reasonable and necessary to confirm the specification of the access, including its minimum width, gradient and kerb radii, and to secure full details and a timetable for the implementation of an off-site traffic calming scheme upon Loughborough Road (as illustrated upon an indicative basis upon the revised access plan). For the same reason, a condition to secure the retention of vehicular visibility splays at the site's access point in accordance with those illustrated upon the revised access plan is also reasonable and necessary. Having inspected the Loughborough Road frontage of the site, I am content that a maximum height of 0.6m for any object within the splays (as requested by the HA) provides satisfactory assurances in a safety sense.
78. In the interests of highway safety and protecting the living conditions of local occupiers, a Construction Method Statement is reasonable and necessary to secure via condition. This is to include details of how construction vehicles would safely enter and exit the site. For the avoidance of doubt, as the construction phase would be temporary, it would be onerous to require the provision of vehicular visibility splays to a formally defined specification at the site's newly intended access point in advance of the commencement of building works.
79. To guard against flood risk and in the interests of promoting the appropriate management and disposal of surface water, conditions are reasonable and necessary that secure the submission of: details of how surface water is to be managed during the construction phase; the results of on-site infiltration testing; a surface water drainage scheme for the development; and a long-term maintenance scheme for the surface water drainage system agreed.
80. In the interests of protecting Local Green Space that is situated along the site's northern edge and that is designated as such through the WVNP, a condition is reasonable to make it clear that the detailed layout to emerge at reserved matters stage shall not involve the erection of buildings upon the designated area. On this basis, the Local Green Space would not be adversely impacted upon.
81. In the interests of ensuring appropriate archaeological investigation and recording, a condition requiring a programme of archaeological work to be submitted and implemented is reasonable and necessary to impose. In the interests of promoting connectivity and the utilisation of sustainable travel modes, a condition is reasonable and necessary that secures a scheme of treatment of public footpath H99A and public bridleway H106. These routes closely align with the northern edge of the site. In the interests of protecting the general amenities of the area and promoting the utilisation of sustainable travel modes, a condition to secure full details of the bin and cycle storage facilities to be installed is also reasonable and necessary.

Conclusion

82. For the above reasons, the appeal is allowed and outline planning permission is granted subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) No development shall commence until full details of the appearance, landscaping, layout and scale (hereafter referred to as the reserved matters) have been submitted to and approved in writing by the Local Planning Authority, and development shall be carried out as approved.
- 2) Application(s) for the approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this decision. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby approved shall be carried out in accordance with the following plans: 5655L 01A and PRJ01-TTE-00-ZZ-DR-0007-P02; and in broad accordance with the following plan: 5655-L-AP3 P01.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall be adhered to throughout the construction period for the development and shall include details of:
 - a) the parking of vehicles of site operatives and visitors;
 - b) the routing of construction traffic;
 - c) safe access to and egress from the site for construction vehicles;
 - d) the loading and unloading of plant and materials;
 - e) the storage of plant and materials used in constructing the development;
 - f) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;
 - g) wheel washing facilities;
 - h) measures to control the emission of dust and dirt during construction;
 - i) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - j) delivery, demolition and construction working hours.
- 5) No development shall take place until a scheme for the treatment of the Public Footpath H99A and Public Bridleway H106 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision for management during construction, surfacing, width, structures, signing and landscaping, together with a timetable for its implementation. Thereafter, the development shall be carried out in full accordance with the agreed scheme and timetable.
- 6) No development, including any site works, shall take place until the hedges and trees located within the site boundaries that are to be retained have been protected in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The agreed protection measures shall remain in place for the full duration of building operations.

- 7) No development shall take place until an Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. As a minimum, the Strategy, which shall be implemented in full, shall include:
 - a) full details of boundary treatments;
 - b) a lighting strategy;
 - c) a Construction Ecological Management Plan (CEMP) to protect features during the construction phase.
- 8) No development shall take place until a programme of archaeological work, which includes a Written Scheme of Investigation, has been submitted to and approved in writing by the Local Planning Authority. The programme shall include an assessment of significance and research questions; as well as:
 - a) the programme and methodology of site investigation;
 - b) the programme for post investigation assessment;
 - c) provision for analysis of the site investigation and recording;
 - d) provision for the publication and dissemination of the analysis and records of the site investigation;
 - e) provision for archive deposition of the analysis and records of the site investigation;
 - f) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

All works, including site clearance, shall be carried out in accordance with the Written Scheme of Investigation to be agreed.
- 9) No development shall take place until such time as a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved scheme.
- 10) No development shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 11) No development shall take place until such time as infiltration testing has been carried out to confirm or otherwise the suitability of the site for the use of infiltration as a drainage element, and the results (or suitable evidence to preclude testing) have been submitted to and approved in writing by the Local Planning Authority.
- 12) No development above slab level shall commence until samples of all the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 13) No development above slab level shall commence until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- a) reveal, cill, lintel, eaves and verge details;
 - b) joinery details;
 - c) location and design of flues, extracts, soil vents and meter boxes;
 - d) rainwater goods.
- 14) Prior to the first occupation of the development hereby permitted, full details of the position and type of the bin and secured cycle storage areas to be provided shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 15) Prior to the first occupation of the development hereby permitted, a landscape and habitat management plan, including long term design objectives, management responsibilities and maintenance schedules for all public open spaces, ecological mitigation areas and the surface water drainage system, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be fully implemented and maintained in accordance with the approved details.
- 16) The development shall not be occupied until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in full accordance with the approved details.
- 17) Notwithstanding approved plan PRJ01-TTE-00-ZZ-DR-0007-P02, no part of the development hereby permitted shall first be occupied until full details of a traffic calming scheme on Loughborough Road and a timetable for implementation have been submitted to and approved in writing by the Local Planning Authority. The agreed traffic calming scheme shall thereafter be delivered in full accordance with the approved details and timetable.
- 18) No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 160.0 metres have been provided in both directions from the site's access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent highway.
- 19) Notwithstanding approved plan PRJ01-TTE-00-ZZ-DR-0007-P02, the site's access shall have a width of a minimum of 5.5 metres, shall be designed with 10.0 metre kerbed radii, shall have a gradient no steeper than 1:30 for a distance of at least 10.0 metres measured back from the highway boundary, and shall be surfaced in a bound material. The access, once provided, shall be maintained as installed at all times.
- 20) The landscaping particulars to be submitted pursuant to Condition 1 shall include full details of:
- a) the treatment proposed for all ground surfaces, including pathways and all other hard surfaced areas;
 - b) planting schedules across the site, noting the species, sizes, numbers and densities of plants and trees, including tree planting within the planting belt to the west of the site;
 - c) finished levels or contours within any landscaped areas;

- d) any structures to be erected or constructed within any landscaped areas including play equipment, street furniture and means of enclosure/boundary treatments;
 - e) functional services above and below ground within landscaped areas;
 - f) all existing trees, hedges and other landscape features, indicating clearly any to be removed.
- 21) The particulars to be submitted pursuant to Condition 1 shall include full details of existing and proposed ground levels and the finished floor levels of all buildings relative to the proposed ground levels.
- 22) The particulars to be submitted pursuant to Condition 1 shall include an updated Biodiversity Impact Assessment which demonstrates the level of biodiversity net gain to be provided at the site.
- 23) The layout particulars to be submitted pursuant to Condition 1 shall not include any buildings within the area identified as a Local Green Space (Site O – Church Leys, Burton on the Wolds – Map 8a) as designated in The Wolds Villages Neighbourhood Plan (made June 2021).

DOCUMENTS SUBMITTED AT THE HEARING

- Illustrative Site Access Drawing depicting visibility splay comparisons, submitted by the Council
- Photograph taken from No 1 Brickwood Place, submitted by Cllr Jenny Bokor

DOCUMENTS SUBMITTED AFTER THE HEARING

- Proposed Site Access and Traffic Management Scheme, ref: PRJ01-TTE-00-ZZ-DR-O-0007P02, submitted by the appellant, received via email dated 28 June 2023
- Illustrative Site Access Drawing depicting visibility splay comparisons (amended), submitted by the Council, received via email dated 29 June 2023
- Deed of Planning Obligation under Section 106 of the Town and Country Planning Act 1990, received via email dated 19 July 2023

APPEARANCES

FOR THE APPELLANT

Zack Simons	Counsel for the Appellant
Craig Alsbury	Principal, Avison Young
Gary Holliday	Senior Director, FPCR
Nicholas Doggett	Managing Director, Asset Heritage Consulting
Rob Holland	Associate Director, Tetra Tech

FOR THE COUNCIL

Howard Leithead	Counsel for the Council, instructed by Kathryn Harrison, Principal Solicitor
Liam Ward	Principal Planning Officer
Simon Neesam	The Landscape Partnership
Mark Fennell	Team Leader, Natural and Built Environment
Richard Brown	Team Leader, Local Plans

INTERESTED PARTIES

Cllr Jenny Bokor	Local councillor
Robert Shields	Burton on the Wolds Parish Council
Michael Windsor	Local resident
John Howgate	Local resident
Helen Jarvis	Local resident
Juliette Ridewood	Local resident
Eileen Smith	Local resident
Claire Abell	Local resident
Alan Carr	Local resident