



Appeal Decision

Site visit made on 6 November 2024

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

Appeal Ref: APP/W2845/W/24/3343140

Land east of The Meadows, Old Stratford (Grid Ref Easting: 477964, Grid Ref Northing: 240789)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jacob Taylor (RO Land) against the decision of West Northamptonshire Council.
 - The application Ref is WNS/2023/0011/MAF.
 - The development proposed is affordable residential development comprising 32 dwellings including public open space, localised land remodelling, flood storage, structural planting and access.
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Decision

1. The appeal is allowed and planning permission is granted for affordable residential development comprising 32 dwellings including public open space, localised land remodelling, flood storage, structural planting and access at land east of The Meadows, Old Stratford (Grid Ref Easting: 477964, Grid Ref Northing: 240789) in accordance with the terms of the application, Ref WNS/2023/0011/MAF, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Jacob Taylor (RO Land) against West Northamptonshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. Whilst national policies relating to housing land supply are proposed to change as part of this consultation, these proposals can only be given limited weight at this stage.
4. I understand the Council is preparing a Draft Local Plan. I am not aware of the exact stage it has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the Framework. Consequently, in accordance with Framework paragraph 48, I give it limited weight.

Main Issues

5. The main issues are:
 - whether the proposal would be in a suitable location in respect to adjacent settlements, local services and facilities; and

- the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Suitable location

6. The spatial strategy and policies for new housing are set out in the West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014 (WNJCS) and the South Northamptonshire Part 2 Local Plan 2020 (SNLP). Read as a whole, they direct new housing towards existing settlements, following a hierarchy that includes rural settlements, but they allow for development outside settlement confines according to an exception site approach. WNJCS Policy H3 supports affordable housing on rural exceptions sites and SNLP Policies SS1 and LH3 allow for entry level exception sites adjoining Secondary Villages (A), of which Old Stratford is one. In both instances, affordable housing criteria must be satisfied.
7. The appeal site is outside the defined confines of a settlement so is in the countryside for planning policy purposes.
8. The Council's Housing and Economic Needs Assessment Update (March 2024) estimates for South Northamptonshire a net need for 348 social and affordable rented homes per annum (Table 76) and a gross need for 94 affordable home ownership dwellings per annum (Table 83). The Council's Strategic Housing Team (SHT) has confirmed some 60 households on its Housing Register are willing to live in Old Stratford and are seeking affordable rented accommodation of various sizes. They also identify strong demand for shared ownership housing in the South Northamptonshire area and support the mix of property tenures and sizes proposed in the development of 32 affordable homes.
9. This evidence satisfies me the form and scale of the proposed development would help meet identified affordable housing needs in the local area, including for first-time buyers or renters. I understand there is affordable housing already under construction nearby, but there is little to demonstrate this will be sufficient fully to meet projected future need. I therefore find the proposal adequately addresses the affordable housing need criteria in WNJCS Policy H3 and SNLP Policy LH3. Consequently, subject to securing the affordable housing in perpetuity, which I will consider below, the requirements for both a rural exception and entry level exception site would be met.
10. WNJCS Policy R1G requires housing development in rural areas to be within the existing confines of a village. However, the second part of the Policy sets out various circumstances in which development outside existing settlement confines will be permitted, one of which is a rural exception site that meets the criteria in WNJCS Policy H3. It follows that a proposal that satisfies Policy H3 cannot also conflict with Policy R1G.
11. Old Stratford has grown in recent years and the development would continue this trend. Nevertheless, the number of additional homes would be modest relative to the current size of the village and the site adjoins the settlement, so any effect on tranquillity in Old Stratford would be limited. The new houses would be within walking and cycling distance of the village's facilities, which would help provide more custom for local businesses. On the evidence before

me, the site also provides an acceptable level of access to other settlements via public transport, including to the services and job opportunities in nearby Milton Keynes. There would be a further economic benefit from construction of the scheme.

12. For these reasons, the proposal would enhance the vitality of the rural community and support growth in the local economy, whether or not local services are currently declining. This would in turn help to maintain and, if anything, enhance the existing sense of community in Old Stratford. Planning obligations would be necessary to ensure local public services can accommodate the additional demand, to which I will return later.
13. Overall, I find the proposal accords with WNJCS Policy S1D, which seeks to enhance and maintain the distinctive character and vitality of rural communities, facilitate access to jobs and services, strengthen rural enterprise and respect the quality of tranquillity. It also accords with WNJCS Policy R1, where it requires development outside existing village confines to enhance or maintain the vitality of rural communities or contribute towards the local economy.
14. The appellant's Planning Statement (PS) explains the steps taken at pre-application stage to engage with the local community, including the offer of a presentation to the Parish Council, a website and leaflets delivered to over 1,000 homes across Old Stratford. Some 115 written responses were received, which are summarised in the PS. Based on this evidence, I do not accept the argument that no effective community engagement was undertaken.
15. Although not cited in the reason for refusal, the Council's appeal statement refers to conflict with SNLP Policies LH4 and LH5. However, these Policies relate to single dwellings in the countryside and self- and custom-built homes respectively, so they are not directly relevant to the appeal scheme.
16. Taking all this together, I conclude the proposal would be in a suitable location in respect to adjacent settlements, local services and facilities and I find no conflict with WNJCS Policies R1G, S1D or H3 or SNLP Policy SS1. I also find no conflict with WNJCS Policy SA, which addresses the Framework's presumption in favour of sustainable development. Further, I find the Framework's approach to growth in rural villages, support for affordable housing on rural exception sites and objective to maximise the supply of housing weigh in favour of the proposal, irrespective of the Council's current housing land supply position.

Character and appearance

17. The appeal site is bounded on two sides by housing, and hedgerows separate it from a field and a meadow that falls away to the riverbank. There is an open corridor along this part of the River Great Ouse, which forms an important part of the rural setting of Old Stratford. However, the appeal site itself is seen against a backdrop of housing in most views from both sides of the river, so its contribution to the form and visual character of the village, local views and the intrinsic beauty of the surrounding countryside is limited.
18. The development would form a relatively seamless extension to the nearby estates, with housing comparable in size and appearance, integrated road layout and footpaths, and new soft landscaping. The existing built edge of the village, which is somewhat higher than the site, would provide a degree of

visual containment, and existing hedgerows would further soften the visual impact of the scheme. The adjacent meadow would be enhanced in biodiversity value, thereby ameliorating this stretch of the open riverside corridor. That area would continue to be appreciated in views from the east and the presence of the existing dwellings means the new development would not appear to extend the settlement south into the wider countryside from this perspective.

19. Overall, the perceived change in the landscape would be localised and would further diminish as new landscaping and green infrastructure mature.
20. For the above reasons, I conclude the effect of the proposal on the character and appearance of the surrounding area would not be harmful. Accordingly, I find no conflict with WNJCS Policy R1, which requires residential development in rural areas not to affect open land of particular significance to the form and character of the village, to preserve and enhance areas of environmental importance and to be of an appropriate scale. I also find no conflict with SNLP Policy SS2, which seeks to maintain the individual identity of villages with no unacceptable loss of undeveloped land, open space or locally important views of particular significance to the form and character of a settlement.

Other Matters

21. The other appeal decisions brought to my attention¹ predate the River View development, which has increased the appeal site's visual containment in local views since they were determined. The evidence of affordable housing need in the area has been updated since 2012 as set out above. In addition, the WNJCS and SNLP have since been adopted and the previous proposals did not involve 100 per cent affordable housing, so the policy context against which the previous appeals were decided is different to that before me. These factors limit the weight I give to those decisions.
22. Concerns have been raised about flood risk, highlighting the proximity of the river flood plain and recent flood events in the area. The appellant's Flood Risk Assessment and Sustainable Urban Drainage (SuDS) Report of January 2024 demonstrates no dwelling or access route would be constructed within Flood Zone 1 and recommends mitigation of surface water flood risk through a SuDS scheme. The report concludes that, subject to such a scheme, no flood waters would be displaced by the development, and it would not impact on existing flood events down-stream. The West Northamptonshire Lead Local Flood Authority has confirmed it is satisfied with this assessment, subject to conditions. On the evidence before me, I see no reason to disagree with this conclusion. There is also little to substantiate the suggestion that insurance premiums would be adversely affected.
23. Access to nearby parkland would be unaffected and planning permission would not override any legal rights of access. Any disruption to public rights of way (PROW) during construction could be mitigated via condition. Consequently, opportunities for dog walking in the countryside, exercise for well-being and children's interaction with nature would not be materially reduced. The river corridor acts as a floodplain, so periods of restricted access to parts of it already occur. Notwithstanding this, the proposed biodiversity gains mean the quality of users' experience of the area would be enhanced over time.

¹ Ref APP/Z2830/A/10/2130630 (21 February 2011) and APP/Z2830/A/11/2151265 (13 January 2012)

24. Local residents have expressed a wide range of other concerns including, but not limited to, the following: impacts on local infrastructure, land contamination, archaeology, protected species, trees, crime, noise, disturbance during construction, highways, parking, and effects on the privacy, outlook and light of neighbouring occupiers. These matters were considered where relevant by the Council at application stage and did not form part of the reason for refusal. There is no compelling evidence before me to lead me to come to a different conclusion to the Council on these matters, subject to securing mitigations via planning obligations and conditions were I to allow the appeal.
25. The issue of impact on property values has been raised, but it is a well-founded principle that the planning system does not exist to protect private interests such as the value of property.

Planning obligations

26. The parties have completed a s106 legal agreement, which includes planning obligations to come into effect if planning permission is granted. I have considered these against the tests for planning obligations in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the statutory tests) and paragraph 57 of the Framework. The obligations relate to the matters set out below.
27. *Affordable housing*: Schedule 1 of the agreement includes an obligation to secure 16 affordable rented dwellings and 16 intermediate tenure dwellings, to be transferred to a Registered Provider of affordable housing, occupied in accordance with the Council's Allocation Policy, and secured as affordable housing in perpetuity. These provisions satisfy the remaining affordable housing criteria in WNJCS Policy H3 and SNLP Policy LH3.
28. There is an option for delivery of 25 per cent First Homes to be secured via an alternative obligation in Schedule 2 of the agreement. The First Homes Written Ministerial Statement of 24 May 2021 (WMS) is a material consideration. Nevertheless, I have found the proposed affordable housing tenure mix, as set out in Schedule 1, is justified by identified local housing need and accords with WNJCS Policy H3 and SNLP Policy LH3. In addition, the evidence before me on potential for First Homes in the area does not demonstrate an over-riding need for this product at the expense of other forms of affordable housing, such that the inclusion of First Homes would be justified in every case. I give these factors greater weight than the WMS in this appeal and find the alternative obligation in Schedule 2 is not necessary. However, I find the obligation in Schedule 1 meets the statutory tests and I give it significant weight.
29. A concern has been raised about potential to vary the affordable housing obligation in the future, with reference to a recent application to do this at The Meadows. There is no pertinent evidence the circumstances in that case are directly comparable to those before me, and I do not know the outcome of that application. In any event, any future application affecting the appeal site would have to be determined on its individual merits.
30. *Education contribution*: £73,608 index linked towards the cost of delivering additional local primary school infrastructure and capacity to meet additional demand from the development, based on Department for Education guidance.

31. *Primary Health Care contribution*: £24,384 index linked towards the cost of increasing clinical capacity in two local medical practices to accommodate additional demand from the development, based on a calculation method agreed with NHS Commissioners.
32. *Library contribution*: £6,071 index linked towards improvement, enhancement, or expansion of library facilities to service the development, based on a formula agreed with the Council's library service.
33. *Biodiversity Net Gain*: the obligation in Schedule 6 of the s106 agreement secures a Landscape and Ecology Management Plan (LEMP) and Biodiversity Net Gain (BNG) Assessment to be approved by the Council prior to commencement of development. 72.83% BNG is to be provided on the adjacent Biodiversity Gain (BG) site, and the BG site is to be secured and registered as such, and managed and maintained for no less than 30 years. This obligation is necessary and proportionate for the reasons set out under the second main issue.
34. *Monitoring Fee*: £3,000 index linked towards the Council's costs in monitoring compliance with the above obligations, as set out in the South Northamptonshire Development Contributions Supplementary Planning Document.
35. For the reasons given, I am satisfied each of these obligations meets the statutory tests and I give them significant weight.

Conditions

36. I have considered the conditions put forward by the Council and amended the wording where necessary in the interests of clarity and simplicity. I gave both main parties the opportunity to comment on the revised conditions and have taken account of their responses. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
37. The contaminated land conditions are necessary for the health and safety of construction workers, future occupants and nearby sensitive receptors. They are pre-commencement conditions because the contamination risks will be triggered by construction and require mitigation before work starts on site.
38. The condition securing a Construction Method Statement is necessary to protect the living conditions of neighbouring occupiers during construction and in the interests of highway safety. It is a pre-commencement condition because these protections need to be in force before works commence.
39. The condition securing a Construction Environmental Management Plan is necessary to protect biodiversity and is a pre-commencement condition because harms to biodiversity could arise as soon as site clearance takes place unless appropriate mitigation measures have first been approved and implemented. The suggested BNG and LEMP conditions are not necessary because their provisions are included in the planning obligation for BNG. However, an additional condition to secure approval of external lighting details prior to installation is necessary to protect biodiversity after completion of the development.

40. The condition on PROW is necessary for the reason given above and is a pre-commencement condition so mitigation can be agreed before any adverse effects occur.
41. The condition relating to finished levels is necessary to mitigate flood risk and is a pre-commencement condition because the agreed levels will affect excavation works. The other flood risk and SuDS related conditions are also necessary to secure recommended mitigations as set out under other matters.
42. The conditions securing approval of external materials and finishes, energy meter housings, landscaping and boundary treatments, and the condition restricting permitted development rights, are necessary to ensure the character and appearance of the development is of high quality and well-integrated with its surroundings. A separate condition requiring use of native species in the planting plan is not necessary because this is already secured by reference to the agreed landscaping proposals in the landscape condition.
43. The fire hydrant condition is necessary for public safety. The condition requiring full completion of access roads and turning areas prior to occupation is necessary in the interests of highway safety. The cycle parking condition is necessary to promote cycling as an alternative to the private car. However, an electric vehicle charging condition is not necessary because this is covered by another regulatory regime.

Conclusion

44. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - 2692_AL0102_P02 - Site Location Plan
 - 2692_AL0101_P05 - Site Location Plan, Existing Block Plan and Proposed Block Plan
 - 2692_AA0001_P01 - Standard Section Details
 - 2692_AB0204_P03 - House Type 03 Floor Plans
 - 2692_AB0201_P03 - House Type 01A Floor Plans
 - 2692_AB0202_P03 - House Type 01B Floor Plans
 - 2692_AB0203_P03 - House Type 02 Floor Plans.

2692_AB0209_P03 - House Type 08 Floor Plans
2692_AB0205_P03 - House Type 04 Floor Plans
2692_AB0206_P03 - House Type 05 Floor Plans
2692_AB0207_P03 - House Type 06 Floor Plans
2692_AB0208_P03 - House Type 07 Floor Plans
2692_AB0213_P03 - House Type 12 Floor Plans
2692_AB0210_P04 - House Type 09 Floor Plans
2692_AB0211_P03 - House Type 10 Floor Plans
2692_AB0212_P03 - House Type 11 Floor Plans.
2692_AB0805_P03 - House Type 04 Elevations
2692_AB0801_P03 - House Type 01A Elevations
2692_AB0802_P03 - House Type 01B Elevations
2692_AB0803_P03 - House Type 02 Elevations
2692_AB0804_P03 - House Type 03 Elevations.
2692_AB0806_P03 - House Type 05 Elevations.
2692_AB0809_P03 - House Type 08 Elevations.
2692_AB0807_P03 - House Type 06 Elevations
2692_AB0808_P03 - House Type 07 Elevations
2692_AB0810_P03 - House Type 09 Elevations.
2692_AB0811_P03 - House Type 10 11 Elevations.
2692_AB0812_P03 - House Type 12 Elevations
2692_AB0813_P01 - Garage Elevations
2692_AB0814_P01 - Double Garage Elevations
2692_AC0001_P01 - Proposed Bin Store
2692_AC0002_P01 - Proposed Cycle Store.
2692_AB1301_P01 - External Materials Schedule
2692_AB0701_P03 - Site Sections
2692_AL0210_P13 - Proposed GA Site Layout Plan
2692_AL0211_P05 - Land Delegation Plan
2692_AL0220_P06 - Proposed Circulation Plan
2692_AL0230_P05 - Proposed Tenure Plan
2692_AL0801_P06 - Proposed Boundary Treatments and Hard Surfacing Plan

SK09 Tactile Pavings and Crossings

- 3) No development shall commence until an assessment of the risks posed by any contamination (including gases and water quality) has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated

land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 4) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 5) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development or relevant phase of development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 6) 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 provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) the routing of HGVs to and from the site;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;

- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities including type of operation (e.g. automated, water recycling) and road sweeping;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No development shall take place, including any works of demolition, ground works and vegetation clearance, until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include:
- i) a survey by a suitably qualified ecologist to ascertain whether protected species have moved onto the site since the original surveys of the site undertaken by Applied Ecology Ltd for their Ecology Report Ref AEL1963 dated December 2022;
 - ii) risk assessment of construction activities with potential to harm biodiversity including protected species;
 - iii) identification of Biodiversity Protection Zones;
 - iv) physical measures and working practices to avoid or reduce harmful impacts on biodiversity during construction;
 - v) the location and timing of sensitive works to avoid harm to biodiversity features;
 - vi) the times during construction when specialist ecologists need to be present on site to oversee works;
 - vii) responsible persons and lines of communication;
 - viii) the role and responsibilities on site of an ecological clerk or works (ECow) or similarly competent person;
 - ix) use of protective fences, exclusion barriers and warning signs.
- The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period for the development.
- 8) No development shall take place until details of any closure, diversion, enhancement or improvement of existing public rights of way 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.
- 9) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed dwellings in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 10) Notwithstanding condition 2, no development above ground level shall take place until details and samples of all external facing materials and

finishes have been submitted to and approved in writing by the local planning authority. These details and samples shall include roof and ridge tiles, bricks, windows, doors, eave and verge treatments, handrails to facilitate pedestrian access to buildings, and hard surfacing for roads and paths. The development shall be carried out in accordance with the approved details and samples.

- 11) No development above ground level shall take place until details of the siting, appearance and colour of any electricity or gas supply meter housings to be located on the external elevations of the buildings 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.
- 12) No development above ground level shall take place until details of fire hydrants to be provided on the site have been submitted to and approved in writing by the local planning authority. The fire hydrants shall be provided in accordance with the approved details prior to first occupation of the dwellings hereby permitted and shall be retained thereafter.
- 13) No development above ground level shall take place until details of covered cycle parking facilities have been submitted to and approved in writing by the local planning authority. The covered cycle parking facilities shall be provided in accordance with the approved details prior to first occupation of the dwellings hereby permitted and shall be retained thereafter.
- 14) No development shall take place until a detailed surface water drainage scheme for the site, based on the approved Flood Risk Assessment and SuDS Report by EAS, dated January 2024 (Ref 2782/2022 Rev G), has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 15) None of the dwellings hereby permitted shall be occupied until the surface water drainage scheme has been completed and a Verification Report for the completed scheme has been submitted to and approved in writing by the local planning authority.

- 16) The development shall be carried out in accordance with the submitted Flood Risk Assessment (Flood Risk Assessment and SuDS Report by EAS, dated January 2024 Ref 2782/2022 Rev G) and the mitigation measures set out in Section 5 of that report. The mitigation measures shall be fully implemented prior to first occupation of the dwellings hereby permitted.
- 17) None of the dwellings hereby permitted shall be occupied until all landscaping works have been carried out in accordance with the following approved details:
 - 153_OLA Meadows Old Stratford Landscape Strategy v4
 - 153_OLA The Meadows Old Stratford Soft Landscaping Specification
 - 153_OLA Meadows Old Stratford Planting Plan 4The completed scheme shall be maintained for a period of 5 years after its implementation in accordance with the approved scheme of maintenance: 153_OLA The Meadows Old Stratford Landscape Maintenance Schedule.
- 18) None of the dwellings hereby permitted shall be occupied until all boundary treatments have been erected in accordance with the approved details in drawing no: 2692_AL0801_P06 Proposed Boundary Treatments and Hard Surfacing Plan.
- 19) None of the dwellings hereby permitted shall be occupied until the estate road and all driveways and turning areas have been laid out, drained, constructed, surfaced and sealed.
- 20) Prior to the installation of external lighting, full details including height, design, location, intensity and shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C, D or E of Part 1 of Schedule 2 to the Order shall be undertaken.

End of schedule



Costs Decision

Site visit made on 6 November 2024

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

**Costs application in relation to Appeal Ref: APP/W2845/W/24/3343140
Land east of The Meadows, Old Stratford (Grid Ref Easting: 477964,
Grid Ref Northing: 240789)**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Jacob Taylor (RO Land) for a full award of costs against West Northamptonshire Council.
- The appeal was against the refusal of planning permission for affordable residential development comprising 32 dwellings including public open space, localised land remodelling, flood storage, structural planting and access.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers the Council has exhibited behaviour that is both procedural and substantive in nature. The Council has not provided a response.
4. I shall address each of the applicant's points in turn.
5. Firstly, the applicant argues comments from the landscape officer (LO) were published after the Council took its decision – about a year after they were provided - and, even when they were published, they were not brought to his attention. He further contends members of the Planning Committee (PC) had not seen these comments when they made their decision, yet the Council has relied on them in the appeal.
6. On the evidence before me, the Council's LO provided comments on application Ref WNS/2023/0011/MAF on 2 June 2023. The applicant submitted an updated LVIA (Ref 9023.LVIA.003) during the application but this does not refer to the LO's comments. Neither the summary of comments received on the application nor the section on landscape impact in the Council's PC Report refers to the LO's comments. Nor do they appear to have been discussed by the PC. Therefore, on the balance of probability and in the absence of objective evidence to the contrary, I find it likely the LO's comments were not published until after the appeal was lodged. This was unreasonable behaviour on the part of the Council, resulting in additional costs to the applicant who had to commission further professional landscape advice to support the appeal.

7. Secondly, the applicant contends the Council changed its position on First Homes during the appeal, which led to lengthy discussions during drafting of the s106 agreement, resulting in additional legal costs.
8. The Council's PC Report does not raise the First Homes option or mention the First Homes Written Ministerial Statement of 24 May 2021 (WMS). There does not appear to have been mention of First Homes as an option during the PC meeting. The Council's appeal statement introduces reference to the WMS and associated PPG on First Homes, but nonetheless gives greater weight to the provisions of SNLP Policy LH3. Further, the Council states requiring 25 per cent First Homes "would have been unreasonable change in an advanced stage of progressing the site". The Council adds its preference is for the affordable housing mix as originally proposed, and the alternative obligation is provided to avoid the appeal being dismissed solely on this basis, in the event I was minded to give greater weight to the WMS.
9. Notwithstanding the Council's intention in providing an alternative obligation, raising the matter of First Homes for the first time at the appeal stage is unreasonable. This is because changing the tenure mix to include First Homes could have implications for scheme viability and deliverability, and even the Council does not find such a late variation would be justified. This unreasonable behaviour has caused the applicant to incur additional legal costs to be able to complete the legal agreement in a form the Council was prepared to accept.
10. Thirdly, the applicant states the Council invited the Lead Local Flood Authority (LLFA) to submit further comments in July 2024, which led the applicant to incur additional costs to review them.
11. On the evidence before me, the Council did invite comments from the LLFA in July 2024, after the appeal was lodged, even though LLFA comments had already been provided prior to determination of the application. The rationale for seeking the further comments is not clear, and I find it unreasonably caused the applicant to incur additional costs for further professional advice at the appeal stage.
12. Fourthly, the applicant argues the Council's appeal statement includes statements that are incorrect and identifies policy conflicts that had not previously been raised.
13. The Council's appeal statement includes an assertion that the appeal site does not adjoin a settlement, which is incorrect and contradicts other parts of its case. It also refers to conflict with SNLP Policies LH4 and LH5, which were not referenced in the reason for refusal, and I found in my appeal decision are not directly relevant to the appeal scheme. Nevertheless, the anomalies are few and more likely to be a product of human error than a deliberate change of position. It is also unlikely the applicant required a significant amount of time to address these points in his statement. I therefore find unreasonable behaviour has not occurred in this regard.
14. Fifthly, the applicant contends the principles of Probity in Planning¹ were not followed when the decision was made because: members of the PC did not raise concerns about the officer recommendation in advance of the meeting; the mover's motion was unclear and left to officer interpretation; there was no

¹ Local Government Association 2019

adjournment to discuss and agree reasons for refusal; no deferment was sought to test the reason for refusal; and officers were not given the opportunity to explain the implications of the contrary decision.

15. I have considered the transcript of the PC meeting submitted with the appeal. Although there is little to indicate the PC had raised its concerns with the officers prior to the meeting, the transcript does not demonstrate definitively that this did not happen. There does not appear to have been an adjournment to discuss the reason for refusal and there was no deferral. Nevertheless, the implications of a contrary decision were explained by officers and discussed by PC members. An officer also stated he had come prepared for a possible overturn and read out a possible reason to PC members. Moreover, the reason for refusal on the decision notice is broadly similar in substance and wording to that discussed with officers during the meeting. I therefore find no unreasonable behaviour has occurred in this regard.
16. Finally, the applicant contends PC members did not understand or correctly consider the requirements of key planning policies relevant to the decision, particularly Policy LH3 of the South Northamptonshire Part 2 Local Plan 2020 (SNLP); and they ignored advice from officers about affordable housing need and the benefits of the proposal.
17. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan Policies and other material considerations relevant to the proposal were set out in the PC Report. As decision-maker, the PC was not bound to accept the recommendation of officers, so long as it justified its decision and showed it to be reasonable. The reasons for the PC's decision are recorded in its reason for refusal, with reference to relevant development plan Policies.
18. On the transcript evidence before me, officers advised PC members during the meeting about relevant development plan Policies and other material considerations. They explained the position on affordable housing need at some length and addressed the weight to be afforded to provision of a wholly affordable housing scheme. Notwithstanding the differing views expressed by PC members about SNLP Policy LH3, the reason for refusal did not ultimately identify a conflict with this Policy. The question of compliance with the development plan read as a whole is a matter of planning judgement. When applying their judgement to this matter, the PC reached a different conclusion to officers, which they were entitled to do. My judgement in my decision was different to that of the PC, but despite this I do not find the PC acted unreasonably.
19. For the reasons given above, unreasonable behaviour that is procedural in nature resulting in unnecessary or wasted expense has occurred in respect of late publication of the LO's comments, the alternative First Homes planning obligation, and inviting further LLFA comments at appeal stage, and a partial award of costs is therefore warranted.

Costs Order

20. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West

Northamptonshire Council shall pay to Mr Jacob Taylor (RO Land), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting late publication of the LO's comments, the alternative First Homes planning obligation, and inviting further LLFA comments at appeal stage; such costs to be assessed in the Senior Courts Costs Office if not agreed.

21. The applicant is now invited to submit to West Northamptonshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Carpenter

INSPECTOR

Richborough