



Appeal Decision

Site visit made on 16 August 2024

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/A2470/W/23/3323586

Land to the east of Normanton Road, Edith Weston, LE15 8HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Davies against the decision of Rutland County Council.
 - The application Ref is 2022/1213/MAO.
 - The development proposed is described as 'Outline application for up to 62 no. dwellings, landscaping and open space with all matters reserved except access'.
 - This decision supersedes that issued on 21 November 2023. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed, and outline planning permission is granted for up to 62 no. dwellings, landscaping and open space with all matters reserved except access at Land to the east of Normanton Road, Edith Weston, LE15 8HD in accordance with the terms of the application, Ref 2022/1213/MAO, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the access into the site. I have assessed the proposal on this basis and treated the drawings as simply being one illustration of how the proposal could ultimately be configured.
3. The appeal was originally going to be determined following a hearing. However, due to significant changes to national policy the Council and appellant now agree that the appeal should be allowed, and planning permission granted. Accordingly, they invited me to consider the proposal on the written submissions. In the circumstances, I was content to do this and am satisfied no party has been significantly prejudiced by the change in procedure.
4. Before changing the appeal procedure from a hearing to written representations, I issued a prehearing note on the 22 May 2024 and an addendum on the 8 August 2024. These documents sought clarification from the parties on several matters. In addressing these, the appellant provided some new information and updated some of the evidence previously submitted. This was reasonable given the passage of time since the previous decision was quashed and because the findings are broadly unchanged. I have taken these updates into account.
5. The Edith Weston Neighbourhood Plan 2023-2041 (EWNP) is at an advanced stage of preparation. I understand a referendum was held on the 20 February 2025. At the time of writing, the outcome of the referendum has not been

confirmed and the plan has not been made. Nevertheless, Section 70(2) of the Town and Country Planning Act 1990 states that I must have regard to the post examination draft neighbourhood plan so far as material to the application.

6. The National Planning Policy Framework (the 'Framework') was revised after the appeal was submitted. The Council and appellant provided further comments on this, which I have considered in reaching my findings.

Background

7. The Council failed to determine the planning application within the prescribed period and therefore the appellant exercised their right to submit the appeal. The Council subsequently confirmed through putative reasons for refusal that, had it been able to do so, it would have refused the application over concerns regarding the conflict with the spatial strategy in the development plan and the absence of a planning obligation securing the provision of affordable housing, open space and biodiversity net gain.
8. The Council's position was upheld in an appeal decision dated 21 November 2023. This decision was subsequently quashed in the courts. In the intervening period, the Framework was updated in December 2024. The effect of one of the changes is to significantly increase the local housing requirement. As such, the Council confirmed that this change in national policy means it cannot currently demonstrate a five-year housing land supply. Indeed, the shortfall is now acute. On the back of this the Council have confirmed that in its view, the conflict with the spatial strategy is not an adverse impact that would significantly and demonstrably outweigh the benefits when applying Paragraph 11(d)ii of the Framework. The Council has also completed a planning obligation with the appellant to address the second concern. As such, the Council is no longer of the view that the appeal should be dismissed.
9. Thus, it became apparent before the hearing was due to open that all the matters in dispute between the Council and appellant had been resolved. Indeed, both the Council and appellant are of the view that the appeal should be allowed, and planning permission granted. After carefully considering the concerns of interested parties, I have arrived at the same view as the Council and appellant for the reasons given below.

Reasons

Whether the appeal site is a suitable location for the proposed development, with reference to the spatial strategy in the development plan

10. To ensure local services are available and the need to travel is reduced, Policy CS2 of the Core Strategy¹ (CS) seeks to focus new development in sustainable locations, primarily the towns and local service centres. In turn, Policy CS3 outlines a settlement hierarchy and Policy CS4 directs development in accordance with that hierarchy. Edith Weston is a Local Service Centre where some growth will be accommodated mainly in the form of small scale allocations, affordable housing sites and infilling.
11. The appeal site is not located within the defined settlement boundary of the village where infilling is supported and is not allocated for development either. Indeed,

¹ Rutland Local Development Framework, Core Strategy Development Plan Document Adopted July 2011

the appeal site is defined as 'Countryside' in the settlement hierarchy. Policy CS4 explains that development in the Countryside will be strictly limited to certain types that have an essential need to be in the countryside. The appeal scheme is not the type of development that inherently needs a countryside location. The proposal would therefore be at odds with Policy CS4 of the CS.

12. Policy SP6 of the of the DPD² states that new housing will not be permitted in the countryside unless there is a demonstrated operational need related to agriculture, forestry or rural workers accommodation or affordable housing meeting an identified local need. The proposal would not adhere to this policy either.
13. Policy EW1 of the Neighbourhood Plan³ (NP) chimes with the aforementioned policies and has similar underlying aims. It states that new development will be expected to fall within the boundary of the planned limits of development unless it is a small-scale allocation, small scale affordable housing or other specified development types of a modest scale. Again, the appeal scheme would be at odds with this policy.
14. The EWNP is intended to replace the NP and is at a very advanced stage of preparation. The evidence base for this document includes a Housing Needs Assessment which suggested a need for 21 homes over the plan period. Rutland County Council provided an indicative housing requirement figure of 51 homes.
15. Accordingly, Policy EW-SG01 of the EWNP states that development will be supported within the Planned Limits of Development (PLD). The corollary is that development outside the PLD will not be supported. In addition, Policy EW-SG02 sets out design principles for the redevelopment of St George's Barracks Officers' Mess, which was granted outline planning permission (Ref. 2023/0822/OUT) for 85 homes on 28 November 2024. This quantum of development would exceed the indicative housing figure.
16. When discussing the overall planning strategy, the document explains that '*The Plan does not undertake housing site allocations, leaving this to the adopted Core Strategy*'. In this respect, Policy CS6 of the adopted CS is concerned with the re-use of redundant military bases. I therefore share the view of the Council and appellant that Policy EW-SG02 does not allocate development. Instead, it provides a type of concept plan, which will now inform the reserved matters submission pursuant to the outline permission 2023/0822/OUT.
17. As such, the effect of allowing the appeal scheme would not be to substitute a planned allocation with an unallocated development, thereby jeopardising the delivery of the former. Accordingly, the proposal would not undermine a central component of the emerging planned strategy or prejudice the outcome of the plan making process. It would not be premature and falls to be considered on its merits. That is not, however, to suggest the proposal would adhere to the EWNP. It is quite the opposite, as the proposal would be a large body of houses outside the PLD and thus at odds with Policy EW-SG01 of the emerging EWNP.
18. In conclusion, the proposal would not be a suitable location for the appeal scheme when applying the spatial strategy in the development plan. The proposal would

² Site Allocations and Policies Development Plan Document Adopted October 2014

³ Edith Weston Neighbourhood Plan 2012-2026

also be at odds with the emerging EWNP. This would harm the public interest of having a genuinely plan led system that provides consistency and direction.

The accessibility of services and facilities

19. The appeal scheme is generally well placed for some of the services and facilities that are in the village. Manual for Streets and the National Design Guide promote an upper walking distance of 800m/10 minutes to services and facilities. Well within this distance there is a bus stop from which a reasonably regular service⁴ for a rural location operates between nearby towns. It would therefore be reasonably convenient to use a bus to go shopping and attend appointments. However, this is unlikely to support commuting to work or evening recreation. A school bus also operates for children needing to attend secondary school.
20. Furthermore, within the 800m distance there is a village store, memorial hall, public house and church. This provides some everyday facilities. However, this is a small range which means regular travel to larger settlements would be required. It would be possible to walk to the primary school, which is 15 mins away, because the route is both safe and attractive. However, given that the accompanying parent/guardian would need to undertake a reasonably long return journey it would be very tempting to drive.
21. Cycling to the facilities available in the village would be possible and there are also national cycle routes nearby. These are mainly leisure routes, but several villages and other services and facilities (including a sailing club, cafe and golf course) are within a comfortable 5km cycling radius given the apparently quiet nature of the interconnecting rural lanes. However, there is an inherent limitation to cycling as future occupants may not have the confidence, fitness or proficiency to cycle. They simply may not have a bike and there is no travel plan proposed which would assist with this or promote sustainable transport more generally.
22. Overall, the appeal site is not ideally placed to prioritise travel by sustainable transport and thus minimise carbon emissions. Indeed, there would likely be high reliance on private motorised transport. As such, and on this measure, the appeal site is not an optimal location for significant development.
23. Nevertheless, it is not entirely inappropriate as in the context of Rutland, Edith Weston is one of the seven largest villages in the County with a range of facilities and access to public transport. With this local perspective the village is relatively better served by services and facilities than many others. Future occupants would also be very well placed for recreational walking and cycling given the proximity of Rutland Water. This would provide health benefits to offset those lost by not regularly engaging in active travel to services and facilities. There is also a rail station at Oakham, which would facilitate some longer journeys to be undertaken, in part, by public transport.
24. Overall, there would be moderate harm arising from the sub optimal access to services and facilities, especially employment opportunities. Indeed, the scale of development means a conflict with Policies CS1(c) and CS2(a) of the CS would occur. As a material consideration the proposal would also be at odds with emerging Policy EW-TM01, which seeks to secure a balanced range of transport choices proportionate to the scale of the scheme.

⁴ Approximately every two hours between 9am and 5.16pm Mon to Saturday

The effect on the character and appearance of the area

25. The appeal site encompasses part of a large arable field broadly sandwiched between two existing housing estates. The field has a benign gradient and is generally unremarkable, but its openness contributes positively to the rural character of the area and the bucolic setting of both Edith Weston and Rutland Water. The western boundary of the appeal site partially adjoins a very attractive paddock which in turn is flanked by land to be designated as Local Green Spaces (LGSs) in the EWNP. This paddock provides an important undeveloped buffer between Chiltern Drive and the village Conservation Area.
26. The appeal scheme would urbanise the appeal site, dramatically altering its character from an open arable field to a housing estate. It is simply not credible to suggest there would not be harm to the landscape character of the area. The previous Inspector was correct when he said the value of the site and its contribution to the surrounding countryside would be significantly eroded.
27. In visual terms the proposal would be seen from Normanton Road and Wytchley Road. The latter is a quiet rural lane which is part of a long-distance footpath. At present, built form on the edge of the village is subservient to soft landscaping in views from this direction due to the presence of mature trees and hedges. Only some of the houses in the small Normanton Road estate and Chiltern Drive are visible and the impact is softened by the dark muted colour pallet of materials. The gardens in Chiltern Drive are also large, spacious and subdivided by hedging.
28. The introduction of a large housing estate in this location on the edge of the village would result in a prominent and discordant intrusion into the rural scene. The impact would therefore be a negative one. However, the proposal would appear as a rounding off of the settlement and there is an opportunity to provide substantial structural landscaping along the entire northeastern boundary. This would take time to mature but would provide an effective screen in around 10-15 years if it was sufficiently wide and the properties behind carefully designed and orientated. Indeed, the properties could be modest two storey dwellings finished in a muted colour pallet. Thus, the visual impact from Wytchley Road and Normanton Road would be stark and incongruous in the short term but could return to the status quo in the medium to long term.
29. For similar reasons, visitors to Rutland Water would perceive the appeal scheme in the medium term in much the same way existing development is viewed. In fact, there is the potential to provide a better edge to the village if the landscaping has considerable depth. In this respect, the proposal would not be at odds with Policy EW3 of the NP. The provision of an open space near to the site entrance, as shown on the indicative drawings, would provide a direct visual buffer between the entrance to Rutland Water and the proposed estate.
30. However, in reaching this finding it must be stressed that the landscaping would need to be structural in scope. By this I mean it would be more akin to woodland than a hedge and probably be wider than is shown on the indicative layout drawing. Residential gardens/curtilages should not encroach into the structural landscaping to ensure longevity. Properties could also be orientated to face northeast, so the backs of houses and fences are not apparent. There is nothing to suggest this could not be achieved through the reserved matters. I am therefore

satisfied that the proposal would have a contained visual effect on the immediate locality subject to an extensive, robust, and comprehensive landscaping scheme.

31. When considering the significant impact on landscape character and the modest medium-term impact on visual amenity, I find a moderate adverse impact overall on the countryside. I have carefully considered the Landscape and Visual Impact Assessments submitted by the appellant. These demonstrate the generally local nature of the impact, but I do not share the overall conclusions that there would not be residual harm for the reasons given.
32. The appeal scheme would be a relatively large body of homes on the edge of a small rural village. It therefore has the potential to harmfully alter the character of the settlement. However, it would adjoin modern estates and appear as a rounding off of the settlement. There is nothing to suggest the architectural styling of the houses, including the material pallet, could not respond positively to the local context of the village and Rutland. Importantly, the paddock to the west of the appeal site would provide a pleasant buffer between the development and the historic village core. This could be supplemented by the placement of a play area and buffer along the south-western boundary of the proposed development as shown in the indicative layout. Thus, the estate need not appear as a stark addition out of character with the settlement pattern of the village.
33. The possible internal layout of the scheme as shown on the indicative layout is very poor. This is largely due to the presence of several small cul-de-sacs branching off the loop road. The result would be a poor structure and a failure to incorporate basic urban design concepts such as perimeter blocks and active frontages as referred to in emerging Policy EW-DH01 of the EWNP. As currently shown, several houses would fail to front onto roads, presenting their backs and sides to the public realm. In addition, corners would not be turned well, and front gardens would be all manner of shapes and sizes. The overall effect would be an incoherent and unattractive street scene. In addition, several houses would be far too close to the landscape buffer along the north-eastern boundary, which would undermine its effect. There would also be a paucity of street trees.
34. Nevertheless, the layout is indicative. Given the size of the site and moderate density proposed, there would be considerable scope for a comprehensive redesign, albeit mindful of the constraints already discussed above. Indeed, a more compact form, perhaps with greater use of terraces and semi-detached house types, would create space for landscaping, including street trees, and a more coherent layout. There is no reason to suggest the design tools referred to in the Framework could not be used to enhance the layout. Particularly, design review, the criteria in Building for a Healthy Life and the National Design Guide. Regard could also be had to Policy EW-DH02 of the EWNP.
35. In conclusion, the proposal would not harm the setting of the village and could be well-designed. Nevertheless, I share the concerns of several interested parties that the proposal would harm the countryside. The harmful impact would mainly be to landscape character as the visual effect would significantly soften over time with robust structural landscaping. The details of this can be resolved through the reserved matters. Accordingly, the overall impact would be moderate adverse. This would be at odds with Policy EW4 of the EWNP.

The effect on the integrity of the Rutland Water Special Protection Area

36. The appeal site is located near to the Rutland Water Special Protection Area and Ramsar site (SPA). These designations are underpinned by the Rutland Water Site of Special Scientific Interest, which is in 'favourable' condition. This area is designated on account of its importance to a range of bird species⁵, which are the qualifying features. The conservation objectives of the SPA can be summarised as ensuring its integrity, by maintaining or restoring the habitats and populations of the qualifying features. As part of a large arable field, the appeal site could be functionally linked to these important sites as a possible foraging and roosting location for over wintering birds.
37. Given this potential pathway of effect, the appellant commissioned over wintering bird surveys. The surveys did not identify any birds listed in the SPA/Ramsar citation using the site. However, Lapwing were observed using the field and they are a notified SPA waterbird assemblage. Lapwing were only recorded using the central and northern parts of the field away from houses and boundary trees. This is probably to reduce the risk of predation and disturbance. The appellant's Ecologist has therefore concluded that only the central and northern parts of the field are functionally linked land to the SPA/Ramsar. Natural England have not taken a different view.
38. As a result, the proposal would not have a direct effect on functionally linked over wintering habitat. This effect can be scoped out of my habitat regulations assessment. Instead, there may be indirect effects from disturbance during construction and the subsequent occupation of the homes, water pollution and invasive species.
39. There are no likely significant effects from invasive species as they are not currently present in the field and imported topsoil would come from licensed suppliers. The open spaces in the development would be managed to eliminate invasive species in the unlikely event they became present.
40. For the reasons given in the Shadow Habitat Regulations Assessment, I share the view that likely significant effects from disturbance (visual and noise) and water pollution cannot be ruled when taking a precautionary approach. The latter can be mitigated through the imposition of planning conditions requiring a Construction Environmental Management Plan (CEMP) and foul and surface water drainage schemes. The CEMP can also address visual disturbance during construction as a temporary screen can be erected and the layout of compounds, parking areas and stores carefully considered.
41. Visual disturbance at the operational stage can be mitigated through a combination of measures including site layout (housing can be set away from the north-eastern boundary), fast growing and mature planting and careful consideration of lighting, including street lighting. Depending on the orientation of properties, two metre garden fencing could be used to screen activity in back gardens (the 3m height suggested would be excessive and unsightly). Fencing would be topped with a cat deterrent to prevent them scaling fences. Thorny species could be further used to prevent cats, dogs and people entering the field.

⁵ Northern shoveler, Eurasian teal, Gadwall, Tufted duck, Goldeneye, Mute swan, Coot, Goosander and Great crested grebe.

42. Literature could also be provided to future occupants to warn of the risk of cat ownership in this location and the importance of the field to birds. A Landscape and Ecological Management Plan (LEMP) would additionally be devised, which would include monitoring.
43. Natural England have reviewed the suite of proposed mitigation measures and are satisfied the proposal would not have an adverse effect with them secured. I afford this expert independent view significant weight. Thus, the proposal would not adversely affect the integrity of the relevant SPA/Ramsar or its qualifying features and assemblage, including functionally linked land.

Other matters

44. It is possible to see the steeple of St Marys the Virgin Church from Wytchley Road. The Church is Grade I listed and therefore, at my request, Historic England were consulted. Historic England did not provide any comments and nor did the Council's Conservation Officer. The significance of the Church encompasses its age, intactness and architectural quality. The building was designed to be seen and to dominate the local landscape. In this respect, the ability to see the steeple from a distance is part of how this important building is experienced.
45. The proposal would be visible in the foreground of glimpsed views of the steeple from Wytchley Road. Only the upper section of the steeple is visible above the tree line. As such, the view is not especially important and therefore the proposal would not harm the significance of the Church. Its setting would be preserved.
46. The Edith Weston Conservation Area (CA) is located on the western side of Normanton Road. The CA encompasses a fine mix of historic buildings, many finished in distinctive local materials. The CA therefore has architectural and historic value and significance as a repository of historic building techniques and the evolution of a rural settlement. The combination of attractive historic buildings and landscaping imparts aesthetic value and significance. A rural setting is important to understanding and appreciating the significance of the CA.
47. The appeal scheme would erode the wider rural setting of the village. However, I am satisfied this would not result in a harmful impact to how the CA is experienced because the proposal would be set slightly away from the edge of the CA with the undeveloped paddock and the LGSs in-between. This would ensure the original form of the historic village is still evident and a rural ambiance to Normanton Road retained. As such, the significance of the CA would not be harmed, its setting would be preserved. There would be no conflict with Policy EW6 of the NP.
48. The Local Highway Authority have independently reviewed the proposal, including the Transport Statement (TS), and is satisfied there would be no harm to highway safety despite the bend in the road to the southwest and the entrance to Rutland Water being to the northeast. Substantive evidence is not before me to justify departing from this expert view. Indeed, the TS demonstrates that the access would be safe, and the number of trips generated by the scheme would be absorbed by the road network. Adequate parking would be secured through the reserved matters so this would not exacerbate the problems already experienced in Normanton Road. There would be no conflict with Policy EW5 of the NP.
49. The submissions from Leicester, Leicestershire and Rutland NHS indicate there is no General Practice capacity for the 149 patients likely to be generated by this

scheme. However, they have suggested that this impact can be mitigated by a payment made from the Community Infrastructure Levy. There is nothing of substance before me to suggest there are any other infrastructure constraints. Another potential failing of the indicative layout plan is that it shows proposed dwellings unnecessarily close to, and awkwardly arrange with, existing properties⁶. This could, however, be addressed through the reserved matters such that there would be no harmful impact on the living conditions of neighbours.

50. The Preliminary Ecological Appraisal (PEA) was undertaken in 2022, and the disclaimer therein gives it a 'shelf life' of 12 months before further advice should be sought. The appellant has sought further advice in the form of additional over wintering surveys, as already discussed, and a Biodiversity Impact Assessment and Enhancement Plan. The latter demonstrates that it would be possible to achieve a biodiversity net gain of at least 10% within the appeal site. Indeed, the main habitat lost would be arable field, which is of low value. The scheme would introduce a more varied mix of habitats including enhanced hedgerows, tree planting, grassed open spaces and strategic landscaping. Bird, insect and bat boxes would also be installed. The site currently includes some semi-improved grassland margins that could provide Great Crested Newt habitat. I understand that there is district level licensing available in the area, which would need to be pursued directly with Natural England. The indicative layout could be amended to ensure a suitable buffer with existing hedgerows, especially those identified in the PEA as Habitats of Principal Importance.
51. Reference has been made to an Interim Position Statement (IPS). However, this document does not form part of the development plan and therefore does not set policy and cannot be treated as if it has that status. Moreover, it is not an adopted supplementary planning document either. It attracts very little weight. Similarly, the site was previously rejected as part of a call for sites in 2011/12, but this also carries little weight as circumstances are now materially different.

Whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits

52. The appeal scheme would be at odds with the development plan taken as a whole. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. A very important material consideration in this instance is that the Council are currently unable to demonstrate a five-year housing land supply. In these circumstances, Paragraph 11 of the Framework directs that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
53. As an adverse impact, the proposal would be at odds with the spatial strategy for housing set out in the NP and LP. However, the spatial strategy was formulated some time ago when the housing requirement was very different and before the recent changes to the Framework. The Council has not disputed the appellant's analysis that the housing requirement has gone from 123 dwellings a year to 266. The best-case scenario for the Council is that it is currently able to demonstrate a supply of 946 dwellings. Accordingly, the five-year housing land supply has fallen from 7.69 years to 3.55 years. When the Housing Delivery Test measure of 80% is

⁶ For example, the proposed houses to the rear of 25 and 26 Chiltern Drive and 35- 39 Normanton Road

factored in, and an additional 20% buffer added to the requirement, the housing supply falls to 2.96 years. This is a very significant shortfall.

54. In this context, a rigorous application of the spatial strategy would undermine attempts to remedy the housing deficit. Indeed, the Council seems to be relying on approving schemes contrary to the spatial strategy to achieve the current housing supply⁷. Moreover, it is unclear how the Council intends to address the housing land supply shortfall. It would seem likely that more housing sites will need to be identified, probably in the countryside. The conflict with the spatial strategy currently carries only moderate weight.
55. The conflict with the emerging EWNPs also needs to be seen in the context of the significant uplift in the housing requirement. The indicative housing requirement figure of 51 homes, which is a minimum rather than a ceiling, now appears out of date given the County's housing requirement and Edith Weston's position in the settlement hierarchy as one of the largest villages in Rutland.
56. In coming to this view, I note that the EWNPs are at a very advanced stage of preparation. I am therefore acutely aware of the understandable local frustration allowing the proposal would naturally provoke. However, it is important to note that Paragraph 14 of the Framework is not engaged because the EWNPs do not include allocations to meet its identified housing requirement. The proposal is therefore to be determined in accordance with Paragraph 11 of the Framework.
57. Edith Weston is not well served by a range of services and facilities and therefore, in a general sense, it is not well placed to take significant development such as that proposed. However, it is sequentially better placed to take development than other smaller villages in Rutland. Its relative sustainability means I afford only moderate weight to the moderate harm that will flow from the sub optimal access to services and facilities. I also afford moderate weight to the moderate harm that would occur to the countryside given that in the medium term the impact would be broadly contained to the site itself. The proposal would also result in the modest loss of Grade 3 agricultural land. Overall, I attach significant weight to the harms.
58. Against this, the appeal scheme would deliver up to 62 homes. In so doing, the proposal could provide a mix of homes that would benefit housing choice. There would also be a moderate benefit to the construction industry and the subsequent occupation could provide a boost to the provision and retention of local services and facilities. The new residents could also provide vitality to the community by getting involved in local clubs and village life.
59. However, there is little substantive evidence before me to indicate that the services, facilities or clubs in the village are suffering for lack of patronage, and a large number of homes have already been approved. As a result, my start point is that the delivery of housing would be a moderate benefit.
60. Nevertheless, it is common ground that the Council are currently unable to demonstrate a five-year housing land supply, and the shortfall is acute. The delivery of 62 homes would notably boost housing land supply in the County. The housing could be delivered quickly as evidenced by an expression of interest from a developer. In addition, 40% of the proposed dwellings would be affordable housing. This is a notable benefit given the need. Five custom and self-build

⁷ The Statement of Common Ground refers to 461 out of 959 homes being approved contrary to Policies CS4 and SP6

dwellings would also be a moderate benefit given the need for this type of housing as well. The delivery of housing would therefore be a benefit of high order. The scheme would also deliver biodiversity net gain and areas of open space. These would be further limited benefits.

61. Accordingly, the appeal scheme would cumulatively provide benefits of at least significant weight which would deliver positively against several policies in the Framework. Most notably the aim to significantly boost the supply of housing, including delivery of affordable housing. Thus, the cumulative adverse impacts of the appeal scheme would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This indicates that on this occasion, the decision should be taken otherwise than in accordance with the development plan.

Planning Obligation and Conditions

62. An executed legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 has been submitted. It ensures no less than 40% of the dwellings would be affordable housing. This is an increase on the level originally proposed (34%). All parties have had a chance to provide comments on this modest change and therefore no one is prejudiced by it. The legal agreement also includes obligations that would secure Open Space, Biodiversity Net Gain and Self or Custom Build Dwellings. The Council have confirmed that the completed legal agreement addresses its second putative reason for refusal.
63. In view of the above, I consider the obligations set out in the legal agreement are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Therefore, they meet the tests within CIL Regulation 122 and those set out in Paragraph 58 of the Framework. There is also compliance with Policies CS8, CS11 and CS23 of the CS. As such, I have taken them into account in reaching my decision.
64. Turning to conditions. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council and appellant. Where necessary, I have made minor changes to the conditions to make them more precise and enforceable, although their aim and meaning has not been altered.
65. In addition to standard commencement conditions, it is necessary to define the reserved matters and require their approval. Landscaping is a reserved matter, so the details of structural landscaping can be secured pursuant to this condition. Implementation of landscaping has been secured at this stage though. I have included 'access' as a reserved matter to address internal circulation routes and external pedestrian access.
66. A drawings condition relating to the position of the main highway access is necessary in the interests of certainty. To protect living conditions, it is necessary to secure a construction method statement. To manage surface water and drainage, it is necessary to secure details of surface water drainage and for the maintenance and management of any system.
67. To protect highway safety and promote sustainable transport, it is necessary to secure the provision of the highway access as shown with the upgraded pavement, for electric vehicle charging points, for vehicle parking to be provided and for all roads and pavements to be constructed in accordance with approved details.

68. In the interests of safeguarding as yet unknown archaeology, it is necessary to impose a condition requiring further investigation. In the interests of safeguarding the character and appearance of the area it is necessary to secure protection of existing trees and hedges in and around the appeal site. To protect biodiversity, it is necessary to secure the mitigation measures recommended to safeguard the integrity of the Rutland Water SPA and its qualifying features.

Conclusion

69. The appeal scheme would conflict with the development plan taken as a whole. However, in this instance material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal has been allowed.

Graham Chamberlain
INSPECTOR

Richborough

Schedule of Conditions

- 1) Details of the access (other than the main highway access into the site from Normanton Road), appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development shall be carried in accordance with the following approved plans:
 - Site Location Plan Rev B (at 1:1250 scale) dated 08.10.21
 - Tree constraints plan Ref. 22.0633
 - Proposed Site Access Plan Ref. AMA/21497/SK03
- 5) No development shall take place until both foul and surface water drainage schemes, including ongoing maintenance and management, have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context. The development shall be implemented, maintained and managed in accordance with the approved schemes.
- 6) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the CEMP.
- 7) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the LEMP.
- 8) No development shall take place until details of the proposed electric vehicle charging points to be provided throughout the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be installed prior to occupation of the development and thereafter retained for that purpose.
- 9) No development shall take place until a Biodiversity Net Gain matrix demonstrating how the development will achieve a minimum 10% net gain has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 10) The details relating to 'layout' submitted pursuant to Condition 1 shall include a detailed phasing plan for the development which identifies each of the self-build plots and the site wide infrastructure as individual phases of

development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved phasing plan.

- 11) No development shall take place until a programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme and will be completed in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the local planning authority. For land that is covered by the approved WSI, no development shall take place other than in accordance with the approved WSI and mitigation, which shall include the statement of significance and research objectives, and
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be satisfied until these elements have been fulfilled in accordance with the programme set out in the WSI.
- 12) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and include:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from construction works
 - Hours of working on site
- 13) Prior to commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be implemented in accordance with the approved details.
- 14) The carriageways of the proposed estate roads shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to

gullies, covers, kerbs or other such obstruction within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

- 15) No development shall take place until the existing retained trees and hedges on the site have been protected by the erection of temporary protective fences in accordance with BS5837:2012 and of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected.

Within the protected areas, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.

- 16) No development shall commence until an updated ecological appraisal is submitted and confirmed in writing as being acceptable to the Local Planning Authority. Any recommendation made in respect of mitigation and enhancement for biodiversity shall be incorporated into the details submitted for the approval of the Local Planning Authority at reserved matters stage and delivered prior to occupation.
- 17) No dwelling shall be occupied until space has been laid out within the site in accordance with the details approved under the appropriate reserved matters for the required number of cars to be parked at the premises.
- 18) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the landscaping details to be submitted as part of the reserved matters, shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority.

Any trees or shrubs which, within a period of 5 years (or any other timeframe stated in the LEMP) of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

End of Schedule