



Appeal Decision

Hearing held on 7 May 2025

Site visit made on 7 May 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2025

Appeal Ref: APP/W2845/W/23/3318366

Land East of Brington Road, Flore

- 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 Barwood Homes Limited against the decision of West Northamptonshire Council.
 - The application Ref is DA/2020/0479.
 - The development proposed is up to 45 dwellings, to include 40% affordable dwellings (7 one bed homes, 5 two bed homes and 6 three bed homes), infrastructure and open space.
 - This decision supersedes that issued on 10 November 2023. That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is allowed and planning permission is granted for up to 45 dwellings, to include 40% affordable dwellings (7 one bed homes, 5 two bed homes and 6 three bed homes), infrastructure and open space at land east of Brington Road, Flore, NN7 4PZ in accordance with the terms of the application, Ref DA/2020/0479, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with access to be considered at this stage and matters of appearance, landscaping, layout and scale to be reserved for consideration later. I have determined the appeal on the same basis and so have treated any details on the submitted plans relating to those reserved matters indicatively.
3. During the Council's determination of the application the development was reduced in scale from 70 dwellings to 45. I have used the amended description in the header above and have considered the appeal on that basis.
4. The appeal, and application, was submitted by Barwood Homes Limited. The appeal progresses in that name, although the company is now called Cora Homes and that is the name used on the submitted planning obligation.
5. No policies were referred to in the decision notice. However the parties have agreed, in the Statement of Common Ground (SoCG), what the most important policies are and I have taken those into account.
6. A costs application was originally submitted by the appellant against West Northamptonshire Council. Unlike the appeal decision, that costs decision was not

quashed, and no costs applications have been submitted in relation to this redetermination of the appeal.

Main Issues

7. Since the decision on the quashed appeal, the appellant suggests the Council no longer have a sufficient supply of housing land. As such, this is a further main issue, in addition to those considered previously. The main issues therefore are:
 - i) whether the development would be suitably located with regard to development plan policy;
 - ii) the effect of the proposal on the character and appearance of the area; and
 - iii) whether there is a sufficient supply of housing land.

Reasons

Location

8. Flore is defined as a Secondary Service Village in the Settlements and Countryside Local Plan (Part 2) for Daventry (2020) (LP2). The appeal site is located outside the confines of the village and is not allocated in any development plan document. Policy SP1 of the LP2 sets out that development within the District's villages would be supported in order to meet the village's identified housing need. As the appeal site is outside the village, it would conflict with this policy.
9. Likewise, policy R1 of the West Northamptonshire Joint Core Strategy (Part 1) (2014) (JCS) sets out the strategy for the rural areas, and states that residential development in the rural areas would be required to meet a number of criteria; one of which is that development is within the existing confines of the village. The proposal would directly conflict with this.
10. The policy then goes on to refer to development outside the village confines and sets out that development here would be supported in exceptional circumstances if it would maintain the vitality of rural communities or would contribute to the local economy. Although the proposal would provide some benefit to the local economy and the vitality of the village, this could be argued of any development and it has not been suggested that there are any exceptional circumstances applicable in this case. Indeed the Council suggest such circumstances are likely to only be rural exception sites on which only affordable housing is built, or sites allocated through the development plan.
11. The policy then also refers to circumstances where housing may be allowed when the housing requirement for the rural areas has already been met. The parties agree that the housing requirement for the rural areas of Daventry as set out in JCS policy S3 has been met. Five criteria are listed and the Council suggest the proposal would fail to meet most of these. In particular, I agree that, although there would be a biodiversity net gain, there would be little other wider environmental improvement in the development of this site for 45 houses. Overall there would be conflict with policy R1.
12. Policy F2 of the Flore Neighbourhood Development Plan (2016) (FNDP) allows for development beyond the development area of the village if it would meet an identified local need. A Housing Needs Survey (HNS) report was published in

March 2021 which showed a need for 29 market houses and 20 affordable units. The Council do not dispute that the development would meet this identified need. As such, the proposal would comply with this part of policy F2. However the policy should be read in line with policy R1. As there would be conflict with policy R1, there would therefore be consequential conflict with policy F2.

13. JCS policy S1 allows for limited development in the rural areas. However the parameters of those limits are set quantitatively by policy S3 and spatially by policy R1; both of which the proposal would conflict with. The explanatory text to S1 does recognise the need for rural development, but then goes on to put this in the context of policy S3, and in that context the proposal would exceed the local need.
14. Policy RA2 of the LP2 relates specifically to the Secondary Service Villages. It sets out the circumstances in which development outside the defined confines would be acceptable. One of which is that the development would meet an identified local need through an up to date HNS, and where it could not be met within the defined village confines. As set out above, the Council do not dispute that the development would meet this identified need quantitatively and they also accept that the completed planning obligation would ensure the homes would, initially, be prioritised for local people from whom the need stems. However, they suggest that it has not been demonstrated that this need could not be met within the village confines.
15. The appellant has not explicitly assessed land within the village confines for any opportunities. Moreover, from the plan in the LP2, it seems there would be no opportunity for a single development comparable to that proposed, and few opportunities for smaller developments. Nonetheless, without any spatial assessment, I could not be confident that the need identified by the HNS, which is less than that proposed, could not be met within the village confines. It is recognised that the 2021 Strategic Land Availability Assessment (SLAA) identified no sites within the village confines, but it is the case that the SLAA relates only to sites of 0.5 hectares or above, so many opportunities for small scale development would not be identified within that document. Also it is not sufficient to rely on the lack of developers or site owners coming forward to demonstrate a lack of space for new housing. Overall I consider it has not been satisfactorily demonstrated that the identified housing need could not be provided within the confines of Flore. In addition, although only developments of 10 units or less within the village confines are supported by the FNDP, this would not necessarily prevent development coming forward on a number of smaller sites which could cumulatively meet the need.
16. The failure to accord with policy RA2 results in a consequential conflict with policy RA6 which relates to forms of development in the open countryside that would be supported. This is because part xi. of policy RA6 requires compliance with RA2, and the proposal would not constitute any of the other forms of development listed in RA6 which could be supported.
17. In terms of accessibility, it is agreed that the development would have good access to the services and facilities in Flore. These include, among other things, a school, a shop and post office, and bus stops served by a reasonably regular and fast service to Daventry and Northampton. However Flore is only a Secondary Service Village and so does not have the fuller range of services and facilities that larger settlements do. As such it is likely that many future residents of the development

would still need to use their cars for some needs, such as employment or secondary education.

18. I am conscious of paragraph 110 of the National Planning Policy Framework (Framework) which highlights that transport solutions will vary between urban and rural areas, and hence it is to be expected that some journeys in rural areas will be by private car. Moreover, residents would have the opportunity to reach larger towns by bus. Nonetheless, it would still be likely, given the number of houses proposed, that a significant number of trips would be by private vehicles.
19. Overall, the development would be beyond the confines of the village, and it has not been demonstrated satisfactorily that the identified housing need could not be met within the village confines. In addition, despite there being a range of facilities in Flore, the development would most likely result in a significant number of journeys being made by an unsustainable mode of transport. On this main issue, I consider the development would not be suitably located and so would conflict with JCS policies R1, S1 and S3; LP2 policies SP1, RA2 and RA6; and FNDP policy F2 as set out above.

Character and appearance

20. The site is located at the junction of High Street and Brington Road and mostly accommodates paddocks. There is a public footpath which crosses the south east corner of the site which provides clear views across it. Although Brington Road rises from south to north, the site is generally flat, such that it is substantially higher than the level of High Street. On the opposite side of High Street are older buildings within the Flore Conservation Area, whilst a relatively new housing development has been built on the opposite side of Brington Road. The verdant and undeveloped nature of the site provides a contrast to the development to its south and west, reflecting the confine boundaries as set out in the LP2 and the FNDP, and informs the rural surrounds of the village especially when seen from the public footpath to the west.
21. The development would introduce substantial built form which would inevitably result in the loss of that undeveloped character. This would be to the detriment of the character of the immediate area. Furthermore, the Daventry Landscape Character Assessment shows the site to be within the Long Buckby Landscape Character Area within which key characteristics include a mosaic of farmland and hedgerows with a field pattern of medium scale fields. Although the development would be likely to include some open areas and strengthen the boundary hedgerows, it would nonetheless result in the substantial loss of a key characteristic of the local landscape.
22. When approaching the village from the north, along Brington Road, the new houses to the west can clearly be seen off to the right as there is little in the way of intervening vegetation. The proposal would most likely also be visible from here, but would not appear so prominently as there is some vegetative screening along the north boundary of the appeal site and the proposed houses would be set back a substantial distance behind that. Similarly, when progressing southwards along Brington Road, some parts of the houses to the west are visible through the trees and bushes that line the road and it is likely that a similar view of the proposal would be apparent through the gappy hedge along the verge; albeit clear views would be possible through the site access. It is also unlikely that the development

would be visible from High Street due to the dense and mature vegetation along the southern boundary of the site. Whilst I recognise the previous Inspector considered the development would be perceptible from High Street, it is likely that the intervening vegetation has grown in the 18 months since his visit.

23. A clear view of the development would be possible from the public footpath that crosses the site and indeed the appellant suggests that the footpath could be incorporated into the area of open space shown on the indicative drawings. The development would also be prominent when seen from positions further to the east along this footpath as the boundary vegetation is not substantial. Although supplementary landscaping could be provided along this boundary, it would take time to establish and could not be relied upon to substantially mitigate the visual impact of the houses, which would be particularly harmful in the context of the agricultural land flanking the footpath.
24. There would be very little urbanising effect, and so minimal harm, resulting from the provision of the pavement from the site access on Brington Road to High Street.
25. In summary, there would be harm to the character of the area through the urbanising effect of the development on a field which is a key local characteristic and which contributes to the rural setting for the village. Even accounting for some mitigatory effect from supplemental planting, there would also be some harm to local views from the public footpath to the east, though there would be little visual impact when seen from other positions. Therefore, overall, I consider the harm to the character and appearance of the area would be moderate.
26. Nonetheless, the proposal would conflict with JCS policy S10; LP2 policies RA2, RA6 and ENV1; and FNDP policies F1 and F5. Together, these policies seek to ensure development respects the character of the surrounding landscape, the open countryside, the setting of the village and the natural environment.

Housing Land supply

27. The JCS was adopted in 2014 and reviewed in January 2020. Paragraph 34 of the Framework advises policies should be reviewed at least every five years. The Council's Housing Land Assessment (HLA) was most recently published in July 2024. Although the Council point out that this is within five years of January 2020, a HLA is not a review of policy. The strategic policies have therefore not been reviewed in the last five years. As such, paragraph 78 of the Framework sets out that the housing requirement should be based on the local housing need as calculated by the standard method set out in national Planning Practice Guidance (PPG) rather than their strategic policies. In doing so, the calculation must be made against the local housing need for West Northamptonshire, not the Daventry area. The appellant suggests that on that basis and using the supply figures in the 2024 HLA, the Council can demonstrate a 5.5 years supply of housing land, instead of 5.9 years the Council suggest using JCS policies and based on the Daventry area. In either case there would be a sufficient supply of housing land.
28. However, the appellant challenges the delivery of the sites identified in the 2024 HLA. The HLA is around a year old and uses 1 April 2024 as its base date. The Council are currently working on this year's HLA which reflects the requirement in the Framework to update annually a supply of deliverable sites. However the appellant's Housing Land Supply Report post-dates the 2024 HLA and the Council

responded to it at the hearing. The PPG advises that Council's should use the latest available evidence. I have therefore considered below some of the larger sites disputed by the appellant's evidence.

Daventry North East, West of Northampton South SUE, The Green, Site N9A, Site N3 & Northampton Railway Station

29. These are six allocated sites on which outline applications have been submitted but are currently undetermined. With regard to Daventry North East, discussions are ongoing in respect of education contributions which will likely impact on the viability of the scheme. The SoCG relating to that site indicates that it was anticipated that outline consent would have been granted by September last year. Progress has already slipped by more than six months, and with issues still to be resolved, is likely to slip further. With regard to Site 9A, although the Council state an approval which would provide 75 units within the five year period is imminent, the application has been under consideration since 2017. So even if approval is forthcoming, the track record is not one of rapid progress. With respect to The Green and West of Northampton, outline applications were submitted recently after the April 2024 base date. Overall, none of these sites currently have outline consent with over a year of the five year period already elapsed. As, with all these sites, reserved matters applications and discharging of conditions will need to follow before work can start and completions be realised, I find there to be no clear evidence of delivery within the five year period. As such the 600 homes identified from these sites should be removed from the supply.
30. In addition, Site N3 is subject of an outline application which has had a resolution to grant since 2022. Although the SoCG identifies no issues, no permission has been granted some three years later. A total of 425 homes are anticipated to come forward at Northampton Railway Station. However at present there is only an undetermined outline application for 280 units. The Council provided no comment on these two sites at the hearing. As above, because of the steps that would need to follow after the granting of outline permission and because there is less than four years of the five years left, it is unlikely that completions could be achieved in time. In the absence of any other clear evidence of deliverability, I can only conclude that the 625 homes identified across these two sites should be removed from the supply.

Site N6

31. This allocated 'Homes England' site has outline permissions with 344 units anticipated to be delivered within the period. However although the Council state applications for reserved matters are imminent there is no substantive evidence to support this and it has been at least eight years since the outline applications were submitted which indicates very slow progress. Without clear evidence to the contrary, 344 units should be removed from the supply.

Site N4 – Phase 4

32. This site is allocated and is currently subject of a hybrid planning application for 100 units in full and 350 units in outline, which is anticipated to be determined in June 2025. Given that development is taking place elsewhere across the allocation and that related infrastructure has been consented, it is likely that the units subject of the full planning application could be completed within the five year period. However, as with other sites referred to above, even if outline permission is

granted imminently, it is not clear that completions on that part of the site could be achieved in a little under four years. As such I consider that only 100 units out of the 225 anticipated would be delivered in the five year period.

North & west of Daventry town centre and Watering Lane

33. These are both allocated sites. There is a masterplan for the former and the latter is a Council owned site with a resolution to progress. However no planning applications have been submitted for either site and no other evidence that the 140 units identified to come forward within the five year period will do so.

Daventry South West

34. Outline permission has been granted on this allocated site and 425 homes are predicted to be completed within the five year period. To date reserved matters has only been granted for 128 units, and this was after the base date. Nonetheless, this aligns with the anticipated deliverability set out in the SoCG. Also, supporting infrastructure is in place and development is already happening on other phases. Although no other reserved matters applications have been submitted for the remainder of the 425 units there is no evidence of any obstacles to roll out and progress is generally on schedule. As such, I find there is clear evidence that the 425 units will be delivered.

Towcester Vale

35. This site has outline planning permission and reserved matters for 259 units was granted in December 2024. Although this post dates the base date, it is not inconsistent with the SoCG which shows the houses to be completed in the later years of the five year period. The long history of developers providing a significant number of homes on other parcels across the site over many years leads me to consider there is clear evidence of delivery.

Micklewell Park extension

36. No applications for development have been submitted so far for this allocated site. Nonetheless the SoCG anticipates an outline application to facilitate the development of 135 units within the five year period to be submitted this summer with completions from early 2028. Although, as with other sites, there is still some significant stages to undertake, the lack of deviation from the SoCG gives a clear indication that completions would occur within the five year period.

Ransome Road

37. This allocated site now has full planning permission for 217 units, albeit granted after the base date. Nonetheless, this is clear evidence that the delivery of 166 of the units within the five year period will be achievable.

Other sites

38. There are a number of other large sites such as Land off Farnborough Drive, Site N7, and The Farm on which there are full or reserved matters applications currently under consideration by the Council. The Farm and Site N7 are allocated and Land off Farnborough Drive has recently been given a resolution to approve subject to the completion of a planning obligation. In all cases I am satisfied that there is clear evidence that the sites will be deliverable.

39. Overall I consider around 1800 homes could be removed from the supply. A reduction in supply of this nature would result in a remaining supply of around 12,800 homes against a local housing need of 13,204. There were other sites whose deliverability the appellant challenged, but these were generally smaller sites so would have only a minimal effect on supply. On this basis, and even if I were to consider all the other disputed sites were deliverable, the Council would fail to be able to demonstrate a five year's supply of housing land, albeit the shortfall is modest.

Other Matters

40. The site is opposite the Flore conservation area. Its significance is largely derived from the collection of historic buildings within it in a rural setting, and so the openness of the site as part of that rural setting makes a strong contribution to that significance. By developing the site, the rural character of the setting of the conservation area would be materially lost. However, given the preponderance of fields that would remain to provide a rural setting to the conservation area, and the dense vegetative screen that would separate the development from the conservation area, the harm would be less than substantial and at the lower end of the scale. I agree with the Council that the provision of 45 dwellings, including affordable homes, is a significant public benefit which outweighs the harm to the setting of the conservation area.
41. A section 106 agreement has been submitted with the appeal. It includes an obligation to ensure 40% of the units on site (up to 18 units) would be affordable and would be prioritised for residents with a local connection. This would accord with JCS policy H2. There are also obligations to provide around £22,000 towards healthcare provision at Weedon Surgery resulting from the additional number of patients likely to be generated by the development, £70,000 towards the provision of shelters and infrastructure at the two bus stops on High Street nearest to the site, and to provide a bus pass for each dwelling to facilitate use of the bus services using those stops. Obligations towards secondary education at Campion School which is already close to capacity, and towards enhanced provision at Daventry library are included, with the value to be dependent on the size of the dwellings. There is also an obligation to ensure the provision and management of on-site public open space.
42. All these contributions have been justified and I consider them to be reasonable in scale and kind to the development, are directly related to the development, and are necessary to make the proposal acceptable in planning terms. I consider therefore that they meet the three requirements of Regulation 122 of the CIL Regulations and I have therefore taken them into account.
43. The concerns of local residents are acknowledged and some of which are addressed above. In addition to those, the development is not 'EIA' development so the regulations relating to that regime are not applicable here, and concerns regarding surface water drainage, particularly from those residents of nearby houses, can be addressed by the provision of a surface water drainage scheme secured by a planning condition. Some concerns are raised regarding the suitability of the access onto Brington Road, but from my site visit, the road seemed to accommodate two-way traffic adequately, visibility would appear to be satisfactory, and the access onto High Street is good. The lack of objection from the highway authority supports my view.

44. I have been provided with numerous appeal decisions relating to developments of a similar scale on the edge of villages in the area. My conclusions that there would be conflict with the development plan policies relating to the location of development are consistent with these. However matters of the effect on the character of the area are site specific and the weight given to the lack of a sufficient supply of housing is a matter of planning judgement.

Planning Balance

45. The proposal would conflict with JCS policies R1, S1, S3, S10; LP2 policies RA2, RA6 and ENV1, and FNDP policies F1, F2 and F5. The proposal would therefore conflict with the development plan as a whole.
46. However, as I have found that the Council do not have a five year supply, albeit the shortfall is modest, paragraph 11d) of the Framework should be considered and the most important policies are considered to be out of date. As a result, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
47. I have had particular regard to paragraphs 110 and 115 of the Framework which both seek to support development in locations that are, or can be made, sustainable. This could be by offering a choice of transport modes, prioritising sustainable transport modes, or by limiting the need to travel at all. As set out above, although the proposal would be outside the settlement's confines, its future residents would have reasonably good access to the facilities and services within the village which could meet their day to day needs and so reduce the need to travel beyond the village. However although there is a choice of transport modes for access into the larger towns, it remains likely that a significant number of car journeys would be made to access those towns. There would therefore be some conflict with these policies.
48. Particular regard should also be had to securing well designed places. Detailed design considerations would be addressed as reserved matters of the appearance, layout and scale of the development. However the urbanising impact of the development on the immediate area, including when seen from the public footpath, would conflict with paragraph 135 which seeks to ensure proposals are sympathetic to local character and the surrounding landscape setting.
49. I have had regard to policies relating to making an effective use of land and providing affordable homes. I have no reason to consider the development does not make an effective use of the site, and there would be a policy compliant provision of affordable housing. The proposal would therefore be supported by these policies.
50. In addition to these, I have had regard to policies that seek to boost the supply of housing, primarily paragraph 61, and which seeks to support housing in rural areas that reflects local needs, in paragraph 82.
51. Overall, though there would be some conflict with design policies and those policies relating to sustainable locations, support would be given by policies relating to affordable housing, the effective use of land and boosting housing supply. Consequently I consider the adverse impacts do not significantly outweigh

the benefits. Therefore the presumption in favour of sustainable development applies.

Conditions

52. I have considered the suggested conditions as well as the advice in the Framework and the PPG in the final wording of the conditions.
53. The conditions relating to the submission of the reserved matters, the commencement of development, the approved plans, limiting the number of houses and the mix of market housing units are imposed in the interests of certainty. A further condition is included which requires the development to be in general compliance with the masterplan so that some important aspects, such as the position of the public open space and the set back from High Street, are carried forward into the final design.
54. In the interests of providing satisfactory living conditions for future occupiers of the development, conditions relating to fire hydrants, contamination, noise levels on site and electric vehicle charging are attached. In the interests of protecting the living conditions of existing nearby residents, conditions relating to construction noise and a Construction and Environmental Management Plan are imposed.
55. Two conditions relating to highway works are imposed in the interests of highway safety. Conditions relating to the provision of a Landscape and Ecological Management Plan (LEMP) and Biodiversity Net Gain are attached in the interests of improving biodiversity at the site. I have incorporated the requirements of the suggested condition relating to bird/bat boxes and hedgehogs, into the LEMP condition. A condition is imposed in the interest of preserving any archaeological features. Three conditions relating to the provision and management of surface water are necessary in the interests of minimising flood risk on, and beyond, the appeal site.

Conclusion

56. The proposal would conflict with the development plan taken as a whole. But given the Council's failure to have a sufficient supply of housing and the moderate harm to the character and appearance of the area, I give modest weight to that conflict. The application of the policies of the Framework, including the presumption in favour of sustainable development, is a material consideration of substantial weight that leads me to a decision other than in accordance with the development plan. The appeal is therefore allowed.

A Owen

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, ("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 take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos. 3436/01 Rev A, 541.0004.001 Rev B, 541.0004.002 Rev B, 541.0004.003 Rev A, and 541.0004.004.
- 5) The development, and all reserved matters applications submitted pursuant to this permission, shall generally accord with the Illustrative Masterplan 3436-SK06D.
- 6) No more than 45 dwellings shall be erected on the site.
- 7) The development hereby permitted shall not be occupied until a scheme for the provision of adequate water supplies and two fire hydrants, necessary for fire fighting purposes at the site, has been submitted to, and approved in writing by, the local planning authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the local planning authority.
- 8) No demolition or construction work (including deliveries to or from the site) that causes noise to be audible outside the site boundary shall take place on the site outside the hours of 0800 to 1800 Mondays to Fridays and 0830 to 1300 on Saturdays, and at no times on Sundays or Bank Holidays.
- 9) The development hereby permitted shall not be commenced until details of an investigation and risk assessment scheme to assess the nature and extent of any contamination on the site have been submitted to and approved in writing by the local planning authority, the approved scheme has been carried out by competent persons and a written report of the findings has been submitted to and approved in writing by the local planning authority. The assessment shall include, unless the local planning authority dispenses with any such requirements in writing, a site investigation to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle and takes into account the proposed new houses. The investigation must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR11'.
- 10) Where the risk assessment identifies any unacceptable risk or risks, an appraisal of remedial options and proposal of the preferred option to deal with land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the local planning authority. No works, other than investigative works, shall be carried out on the site prior to the confirmation in writing of approval of the preferred remedial option by the local planning authority. This must be conducted in accordance with

DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR11'.

- 11) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the remediation. The local planning authority must be given two weeks written notification of the date of commencement of the remediation scheme works.
- 12) No development works other than that required to carry out the remediation shall be carried out until after the completion of the works required by the remediation scheme, the submission of a written closure report to the local planning authority, and the local planning authority have confirmed in writing that the closure report is satisfactory. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved remediation scheme, and confirmation of the effectiveness of the scheme in ensuring the site can be considered as suitable for the end use of residential with plant uptake. Post remediation sampling and monitoring results shall be included in the closure report.
- 13) If during development, contamination not previously considered is identified, then the local planning authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the local planning authority.
- 14) The highway improvements (all works to the access, Brington Road footway extension and crossings on High Street) as detailed in the approved plans 541.0004.001 Rev B, 541.0004.002 Rev B, 541.0004.003 Rev A and 541.0004.004 shall be completed prior to the first occupation of the site.
- 15) Prior to the commencement of any works taking place on the site the applicant is required to provide the arrangement of the agreed highway improvement works as detailed in condition 14 above and associated infrastructure; bus shelters, by way of a Section 278 Agreement that the applicant will be required to enter into with the local highway authority for the purpose of undertaking these works.
- 16) A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:
 - a) description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving the aims and objectives;
 - e) prescriptions for management actions;
 - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);
 - g) details of the body or organisation responsible for implementation of the plan;

- h) ongoing monitoring and remedial measures; and
- i) the provision of integrated bat and/or bird bricks in each dwelling and any close boarded fencing to be erected as part of the boundary treatment proposed shall incorporate hedgehog holes at suitable points and shall thereafter be retained.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 17) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:
 - a) fieldwork in accordance with the agreed written scheme of investigation;
 - b) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority); and
 - c) completion of post-excavation analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the local planning authority, completion of an archive report, and submission of a publication report to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority.
- 18) A Construction and Environment Management Plan (CEMP) must be submitted to and approved in writing by the local planning authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, work hours and Monitoring Arrangements.
- 19) Prior to the occupation of the residential units, a scheme for achieving the external and internal noise levels outlined in BS8233:2014 and World Health Organisation Guidelines shall have been submitted to and approved in writing by the local planning authority, and the approved scheme implemented as approved. Thereafter it shall be retained in the approved state at all times with no alterations made to the approved structures including roofs, doors, windows and external facades, layout of the units or noise barriers.
- 20) Prior to the commencement of development, provision of ducting to allow for installation of EV charging infrastructure will be required (one charge point

per residential unit), in order to make resident parking places EV ready for future demand. The details and location of such provision should take into consideration the availability of electrical supply and should therefore be designed making reference to information held by the local distribution network operator. Subsequently, these details and designs should be submitted to and approved in writing by the local planning authority. Such provisions shall be formed and laid out in accordance with these details before usage of the parking spaces commences and shall remain in place thereafter.

- 21) No above ground work shall take place until full details of the surface water drainage scheme for the site, based on the approved Flood Risk Assessment and Drainage Strategy ref 541.5004/FRA&DS/2 rev 2 dated 20th May 2020 prepared by Paul Basham Associates, have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented and maintained in accordance with the approved details before the development is completed. The scheme shall include:
 - a) details (i.e. designs, diameters, invert and cover levels, gradients, dimensions) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation structures (if required);
 - b) details of the drainage system accompanied by full and appropriately cross-referenced supporting calculations; and
 - c) cross sections and manufacturers hydraulic curves for all control chambers and flow control devices.
- 22) No above ground work shall take place until a detailed scheme for the ownership and maintenance for every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the local planning authority and the maintenance plan shall be carried out in full thereafter. Details are required of the organisation or body responsible for vesting and maintenance of individual aspects of the drainage system. The maintenance and/or adoption proposal for every element of the surface water drainage system proposed on the site should be considered for the lifetime of the development and a maintenance schedule setting out which assets need to be maintained, at what intervals and what method is to be used including details of expected design life of all assets with a schedule of when replacement assets may be required, should be submitted. A maintenance schedule should be accompanied by a site plan to include access points, maintenance access easements and outfalls. Maintenance operational areas shall be identified and shown on the plans to ensure there is room to gain access to the asset, maintain it with appropriate plant and then handle any arisings generated from the site.
- 23) No occupation of the development shall take place until the Verification Report for the installed surface water drainage system for the site, based on the approved Flood Risk Assessment and Drainage Strategy ref 541.5004/FRA&DS/2 rev 2 dated 20th May 2020 prepared by Paul Basham Associates, has been submitted in writing by a suitably qualified independent drainage engineer to, and approved in writing by, the local planning authority. This shall include:

- a) any departure from the agreed design is in keeping with the approved principles;
 - b) any As-Built Drawings and accompanying photos;
 - c) results of any performance testing undertaken as a part of the application process (if required / necessary);
 - d) copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc; and
 - e) CCTV confirmation that the system is free from defects, damage and foreign objects.
- 24) The reserved matters shall include a mix of market units to be agreed with the local planning authority and account for 60% of the total number of dwellings.
- 25) As part of the reserved matters submitted pursuant to condition 1, details of how the development will enhance biodiversity (demonstrating a minimum of 19% biodiversity net gain) shall be submitted to and approved in writing by the local planning authority. The details shall include:
- a) an updated Metric calculation based on the detailed site layout and landscape scheme and calculated using the latest version of the Defra metric and up-to-date baseline habitat and condition assessments and justifications;
 - b) a Biodiversity Gain Plan; and
 - c) a timetable for implementation;

The development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Thea Osmund-Smith	No5 Chambers
Andrew Gore	Marrons
Alasdair Thorne	Marrons
Will Gardner	EDP
Paul Wakefield	Shakespeare Martineau

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Murphy	West Northamptonshire Council
Nisar Mogul	West Northamptonshire Council
Richard Wood	Head of Planning Policy
Jane Parry	Planning Policy Officer
Alan Munn	Planning Policy Officer

INTERESTED PARTIES:

Phil Bignell	Ward Councillor
Andy Anderson	Flore Parish Council
Tom Higginson	Local resident
Mr Colton	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Statement by Cllr Phil Bignell



Costs Decision

Hearing held on 12 October 2023

Site visit made on 12 October 2023

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Costs application in relation to Appeal Ref: APP/W2845/W/23/3318366 Land East of Brington Road, Flore

- 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 Barwood Homes Limited for a partial award of costs against West Northamptonshire Council.
 - The appeal was against the refusal of planning permission for an outline planning application of up to 45 dwellings, to include 40% affordable dwellings (7 one bed homes, 5 two bed homes and 6 three bed homes), infrastructure and open space. (All matters reserved other than access).
-

Decision

1. The application for an award of costs is refused.

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. Owing to the scale of the proposed development, a Section 106 Agreement was required. This document was drafted, albeit not completed in advance of the hearing taking place. It is understood that the Council, at a late stage and close to the hearing taking place; made comments and raised questions regarding the drafting of the Agreement.
4. The timing of such correspondence was inopportune, particularly as the hearing had been postponed from a previous date. However, the Council was required to ensure that the Legal Agreement met its requirements in being enforceable; provided the required mitigation for the development; and ensured that the development was policy compliant.
5. The appellant therefore instructed their solicitor to attend the hearing, in order to participate in the section of the discussion pertaining to the legal agreement. I appreciate that this required the solicitor to be present for the entire hearing as it was not certain as to the time that discussions regarding the legal agreement would commence.
6. However, it is the choice of the relevant parties as to which professional representatives attend a hearing, if indeed any. Therefore, it was the choice of the appellant that their solicitor attended the hearing, rather than it being a requirement of the proceedings. This is the case even though the appellant's

solicitor was instructed to attend the hearing at relatively short notice and only following the written comments of the Council being received.

7. Had the comments from the Council been received by the appellant at an earlier juncture, there was a likelihood that these matters could have been resolved in advance of the hearing commencing. However, this did not necessitate the appellant's solicitor to attend the hearing to conclude matters, given the format of a hearing.
8. Therefore, although there was a delay in the Council providing comments, I do not believe that this caused wasted or unnecessary expense on the part of the appellant. In result, I am unable to conclude that the Council has acted unreasonably in this regard.
9. In addition, any additional drafting of the agreement would have needed to be undertaken irrespective of the timing of the comments. This means that the Council's actions did not result in wasted, or unnecessary expense.

Conclusion

10. I therefore conclude that the Council has not acted unreasonably and therefore there has not been any wasted or unnecessary expenses, as described in the PPG. Accordingly, an award of costs is not justified.

Benjamin Clarke

INSPECTOR