



North Somerset Council

Statement of Case

Town and Country Planning Act 1990 Section 78

Appeal by Long Ashton Land Company against the refusal of outline planning permission for the erection of up to 35 dwellings, allotments and associated access, parking, drainage infrastructure and landscaping, with new access off Weston Road for approval, and appearance, layout, scale and landscaping reserved for subsequent approval.

**Land south of Warren Lane, north of Weston Road,
Long Ashton, North Somerset**

Planning Inspectorate reference:

APP/D0121/W/23/3315584

North Somerset Council reference:

21/P/3076/OUT

1 Introduction

1.1 This appeal is against the decision of North Somerset Council ('the Council') to refuse to grant outline planning permission for the following two reasons:

"1. The proposed development constitutes inappropriate development in the Green Belt. The Housing Needs Survey and alternative site considerations submitted in support of the application are insufficient to demonstrate that the proposal would provide limited affordable housing to meet local needs under policies in the development plan. There is no Parish Council support for the proposal. The proposed development is therefore contrary to Core Strategy Policy CS17 (a), (b), (c) & (d), the Affordable Housing SPD, Policies LHN 3 and LHN 4 of the Long Ashton Neighbourhood Development Plan and paragraphs 147-149 of the National Planning Policy Framework.

2. The proposed development would result in the complete removal of all archaeological remains from the development site and would cause unacceptable harm to the Scheduled Monument. These remains form part of the significance of the designation of this heritage asset. In addition, the development of part of the historic field pattern associated with the Scheduled Monument would cause unacceptable harm to the historic landscape. The proposed development is therefore contrary to Policy CS5 of the Core Strategy, Policy DM6 of the North Somerset Sites and Development Plan, and paragraphs 195, 199, 200, 201, 202 and 205 of the National Planning Policy Framework."

2 Background Information

2.1 A description of the appeal site and local surrounding area and the appeal proposal will be set out in the Statement of Common Ground (SoCG). A list of the documents on which the planning application was determined will also be agreed through the SoCG.

2.2 A list of Core Documents will be agreed. These will include the officers' report under delegated powers and the decision notice.

3 Planning Policy

3.1 Section 38 (6) of the Planning and Compulsory Act 2004 and section 70 (2) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.

3.2 The development plan includes, of relevance to this appeal:

- North Somerset Core Strategy (adopted January 2017)
- North Somerset Sites and Policies Plan Part 1 – Development Management Policies (adopted July 2016)
- North Somerset Sites and Policies Plan Part 2 – Site Allocations Plan (adopted April 2018)
- Long Ashton Neighbourhood Development Plan (made November 2015)

3.3 The following development plan policies are most important in the determination of the appeal.

North Somerset Core Strategy (NSCS) (adopted January 2017)

CS5	Landscape and the historic environment
CS6	North Somerset's Green Belt
CS17	Rural exception schemes
CS32	Service Villages

The Sites and Policies Plan Part 1: Development Management Policies (adopted July 2016)

DM6	Archaeology
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Site and Policies Plan Part 2: The Site Allocations Plan (November 2018)

SA2	Settlement boundaries
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Long Ashton Neighbourhood Development Plan

LHN3	Scale and type of new housing
LHN4	Provision of affordable housing for local people

3.4 Other development plan policies and Supplementary Planning Documents will be relevant to proposed planning conditions and/or obligations and will be referred to as appropriate.

- 3.5 The Council will show the proposal is clearly contrary to the adopted Development Plan, would be inappropriate development in the Green Belt and harmful to its openness. Conflict with the adopted rural exception sites policy will be demonstrated and the harm to the significance of the scheduled monument will be explained.
- 3.6 Consequently, the scheme does not constitute sustainable development, and when read in the context of the policies in the National Planning Policy Framework, these impacts constitute compelling reasons for dismissing the appeal.
- 3.7 Reference will be made to the following Supplementary Planning Documents where relevant to proposed planning obligations and conditions.

Supplementary Planning Documents (SPD)

- North Somerset Parking Standards SPD (adopted November 2021)
- North Somerset Landscape Character Assessment SPD (adopted September 2018)
- Biodiversity and Trees SPD (adopted December 2005)
- Creating sustainable buildings and places SPD (adopted April 2021)
- Travel Plans SPD (adopted February 2023)
- Affordable Housing SPD (adopted November 2013)
- Development contributions SPD (adopted January 2016)
- North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD (Adopted January 2018)
- Accessible Housing Needs Assessment SPD (Adopted April 2018)

- 3.8 The Council is preparing a new Local Plan intended to cover the period up to 2038. This plan has reached Regulation 18 stage and carries little weight in the consideration of this appeal.
- 3.9 The Council's evidence will refer to the National Planning Policy Framework which is a material consideration of significant weight. References will also be made to the National Planning Practice Guidance where relevant.

4 Principle of Development

- 4.1 The site lies adjacent to the settlement boundary of the village of Long Ashton, on land designated as Green Belt and within the boundary of a Scheduled Monument. Within this context the Council's evidence will demonstrate that the proposal is contrary to national and local policy and does not represent sustainable development.
- 4.2 A previous planning application for 35 homes on the same site was refused by the Council in November 2020. Whilst the description of development for the appeal proposal remains the same as for the previous refused application it is understood that this proposal is now for 100% affordable housing. The Council's evidence demonstrate that the development is contrary to the development plan in either respect.

Location of development

- 4.3 The Council's evidence will explain the policy context for residential development in this location and how the proposed development is contrary to the adopted development plan's spatial strategy as set out in Policies CS32 and CS33. Policy CS32 of the North Somerset Core Strategy deals with the principle of residential development at locations within or adjoining service villages but resists development in the Green Belt. As the appellant intends to limit the development to 100% affordable housing Policy CS17: Rural Exception Schemes is also relevant, as are policies LHN3: Scale and type of new housing and LHN4: Provision of affordable housing for local people of the Long Ashton Neighbourhood Plan.
- 4.4 The proposal for 35 dwellings does not represent a limited scale and the proposed development cannot be described as a 'small site'. It would therefore fall outside the definition of a rural exception site for the purposes of the NPPF and the development plan policies.

Green Belt

- 4.5 The site is within the Green Belt. The Council's evidence will explain how paragraphs 147-149 of the National Planning Policy Framework are relevant and explore the context of inappropriate development in the Green Belt. It will be demonstrated that this scheme does not constitute limited affordable housing for local community needs under policies set out in the development plan, and therefore the proposal is inappropriate development which is by definition harmful to the Green Belt. Evidence will be presented to show how the development would also result in significant harm to the spatial and visual aspects of the openness of the Green Belt.
- 4.6 The appellant has not demonstrated any Very Special Circumstances in this case, nor even claimed that there are any in their Statement of

Case, and therefore the proposed development is contrary to the NPPF and the development plan in respect of Green Belt policy.

Rural Exceptions

- 4.7 The Council's evidence will set out how the proposal by reason of its size fails to comprise a rural exception site, having regard to the NPPF glossary definition which limits these to 'small sites' and fails to comply with Paragraph 149 of the NPPF which only supports 'limited affordable housing' in the Green Belt. The Council will refer to the appeal decisions attached to this statement of case as Appendices 1 and 2 to support this position.
- 4.8 Policy CS17 of the North Somerset Core Strategy supports rural exception schemes for affordable housing which meet identified local needs within small rural communities, subject to criteria. This policy does not permit rural exception schemes in the Green Belt unless justified by very special circumstances. The policy text is set out in full below.

CS17: Rural exceptions schemes

Housing schemes for 100% affordable housing to meet local needs within small rural communities will be supported where:

- a) the development meets an identified local need demonstrated by an up-to-date needs survey or other evidence;
- b) the development is supported or initiated by the parish council;
- c) the site search has followed a sequential approach with priority given to sites within any settlement boundary, sustainability principles, and avoiding sensitive locations;
- d) the scale of development is appropriate for the location;
- e) the affordable housing is provided in perpetuity.

Rural exceptions schemes will be acceptable adjacent to the settlement boundaries of Service Villages and Infill Villages and elsewhere adjacent to the main body of the settlement, but not in the Green Belt unless justified by very special circumstances.

- 4.9 It will be demonstrated that the proposals are manifestly in conflict with limbs b), c) and d) of Policy CS17, on the basis that they lack Parish Council support, the appellant's site search has failed to avoid a sensitive location and the scale of development is inappropriate for the location.
- 4.10 At the time of refusing the planning application concerns were expressed by the Council over the content of the submitted Housing Needs Survey, initially dated May 2018 and subsequently updated in October 2021. A further updated Housing Needs Survey dated January

2023 was submitted as part of the appeal documentation. It is accepted that this now demonstrates a general need for affordable housing within the Parish.

- 4.11 Affordable housing need is not unique to Long Ashton and this will be explained in evidence. It will also be shown that it is not national or local policy to require the provision of rural exception sites in the Green Belt to meet the full extent of any unmet need. The Council maintains that the proposal continues to conflict with Policy CS17 when read as a whole.
- 4.12 Reason for refusal 1 cited a conflict with policies LHN3 and LHN4 of the Long Ashton Neighbourhood Development Plan. This was on the basis that the appellant had failed to adequately demonstrate a need for affordable housing within the Parish. The updated Housing Needs Survey, it is accepted, now demonstrates an unmet need for affordable housing and subject to agreement of the housing mix the development is no longer considered to be in breach of these policies.

Impact upon Scheduled Monument

- 4.13 The Council's case will set out how Scheduled Monuments are designated by the Secretary of State and are considered to constitute heritage assets of the highest order. Reference will be made to Government policy on Scheduled Monuments and the Ancient Monuments and Archaeological Areas Act 1979 and relevant Historic England publications.
- 4.14 The proposed development of up to 35 dwellings is within the eastern extent of Bridgeman's Field, which lies within the Scheduled Monument of a 'Roman small town, part of an associated field system and earlier Iron Age settlement remains at Gatcombe Court', more commonly known as Gatcombe Roman Town. This walled Roman settlement, with its associated field system and earlier Iron Age settlement remains was designated as a Scheduled Monument partly due to the fact that small Roman urbanised settlements with associated field systems and evidence of earlier occupation are rare in a national context.
- 4.15 It will be demonstrated that based on the results of archaeological investigations in 2012 and 2013 the archaeological remains within the appeal site were considered to contribute to the significance of the Scheduled Monument and how this led to the scheduling being extended in 2014 to include it.
- 4.16 The significance of the site will be explained and it will be shown that the proposal would result in the loss of all archaeological remains within the development area as well as resulting in harm to the significance of the

Scheduled Monument itself and its wider setting by extending the urban edge of Long Ashton towards the walled settlement.

- 4.17 The Council will refer to recent planning permissions and Scheduled Monument Consents within the Scheduled Monument and explain how the circumstances differ from the current appeal proposal.
- 4.18 The Council will show that the development would result in less than substantial harm to the significance of this heritage asset of the highest importance, for which there is no clear justification. This harm must be afforded great weight. It will be explained that the public benefits of the appeal proposal do not outweigh this harm and that no heritage benefits would arise from the scheme. The development is therefore contrary to Government Policy on Scheduled Monuments, the NPPF and the development plan.

Housing land supply position

- 4.19 It is accepted that at present the Council is unable to demonstrate a five year housing land supply with the most recently tested position standing at 3.5 years.
- 4.20 Whilst this would ordinarily engage the tilted balance exercise set out in paragraph 11 of the NPPF, it will be demonstrated that in this case the application of policies in the framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed – namely Green Belt and designated heritage assets.
- 4.21 Notwithstanding the Council's position that the tilted balance is not engaged, in the event that the Inspector were to conclude otherwise, it will be demonstrated that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the appeal proposal.

5 Planning obligations and conditions

- 5.1 Without prejudice to the Council's case, a Section 106 Legal Agreement is required to secure contributions in the event that the appeal is allowed.
- 5.2 A list of suggested conditions will also be agreed with the appellant in advance of the inquiry.

Appendix 1



Appeal Decision

Site visit made on 1 February 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2022

Appeal Ref: APP/P0119/W/21/3281438

Hillcrest, Abson Road, Pucklechurch BS16 9SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Skye Property Group Limited against the decision of South Gloucestershire Council.
 - The application Ref P21/01865/O, dated 18 March 2021, was refused by notice dated 17 June 2021.
 - The development proposed is erection of 15 No. affordable housing units (outline) with all matters reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with all matters reserved at this stage. Therefore, I have treated the drawings showing the details of layout and access as indicative only
3. In the banner heading above I have referred to the description of development used in the appeal form and the Council's decision notice, as this more accurately describes the proposal.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2021) (Framework) and any relevant development plan policies;
 - the effect of the proposal on openness and the purposes of including land within the Green Belt;
 - whether the location is suitable for dwellings having regard to policies restricting development in the countryside;
 - whether the proposal makes adequate provision toward infrastructure, with particular reference to affordable housing and open space.
 - if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

5. The appeal site comprises a large T-shape field located outside the settlement boundary of the village. The proposal would comprise 15 dwellings that would be entirely affordable in tenure, while a proportion of these would be self-build units.
6. The Framework outlines that the Government attaches great importance to Green Belts and the construction of new buildings within the Green Belt should be regarded as inappropriate development other than where it falls under a list of exceptions. Of those exceptions the appellant directs me to Paragraph 149 (f) of the Framework which allows limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites). The appellant indicates that all the dwellings would be affordable units, therefore I have no reason to dispute that the proposal should be assessed against that part of the Framework.
7. The site is close yet outside, the south boundary of the settlement of Pucklechurch; it therefore lies in the countryside, where according to Policy CS5 of the Core Strategy¹, new development will be strictly limited and where market housing would not normally be acceptable. There are exceptions, however, for the development of affordable housing as outlined in Policy CS19 of the Core Strategy (exceptions policy). These include amongst other things that the proposal is supported by a housing needs survey, is well related to a rural settlement, modest in scale and is supported or initiated by the Parish Council.
8. According to the application form, the appeal site has an area of around 0.8Ha. From Abson Road to the east the site appears as an expansive field that extends significantly in depth from its roadside frontage to its western boundary with Southover Lodge. The site's large scale is also perceptible from Back Lane, where there are views of its long conifer lined western perimeter.
9. Although layout and access have not been fixed at this stage, the indicative drawing shows two lines of dwellings extending across the site and served by new roads, planting, public open spaces and requisite parking and private gardens. The dwellings and associated infrastructure would be arranged over a sizeable area and the number of units proposed would not be small in amount. Therefore, insofar as it relates to the wording of the Framework and the purposes of the Green Belt, the site's area, and the extent of affordable dwellings it would contain would not in my view be "limited". Similarly, it would not be modest under the terms of the Council's exceptions policy.
10. The appellant states that there is demand for self-build properties in the county as indicated by the Council's self-build register. Whilst that evidence is not doubted, the proposal relates wholly to affordable dwellings and the exceptions policy requires details of local demand at a community and Parish level. In the absence of this information the appellant has not demonstrated a genuine local need for affordable housing from people in the locality. There is also no evidence of the proposal being supported or initiated by the local Parish Council, who in this instance have material planning concerns regarding the proposal's compliance with Green Belt and exceptions policies.
11. In contrast to the more built-up part of the village to the north, the appeal site is located in a more spacious and loose knit context next to low density housing and green spaces. It is nevertheless a short distance from the higher density part of

¹ South Gloucestershire Local Plan: Core Strategy, adopted December 2013 (Core Strategy)

the settlement and contiguous with Back Lane, which delineates part of the settlement's southern boundary. Therefore, in this regard it fulfils the exceptions policy's requirement of being well related to the settlement.

12. In the appellant's view it is not the Parish Council's remit to decide whether or not a planning matter should or should not be approved, nor are they appropriately qualified to do so. This refers to one of the exception policy's criteria. However, the Parish council have provided relevant and material planning concerns that align with those outlined in my findings. Their support is also required for the Council's exception policy to be satisfied. Without this the terms of Paragraph 149 (f) of the Framework would not be met. Therefore, the views of the Parish Council are valid and weigh against the proposed development.
13. The appellant considers that the number of residential units proposed is limited numerically compared to some of the much larger housing allocations in the Council's development plan. Whilst the number of units proposed might be limited when taken as a proportion of some of those larger sites, the term 'limited' insofar as it relates to the Framework must be understood in context with the fundamental aim of Green Belt policy i.e. to prevent urban sprawl by keeping land permanently open. In this regard, I have placed limited weight on the appellant's rationale.
14. Even though, I have found that the appeal site would be well related to the settlement of Pucklechurch, in other respects the proposal is not limited or modest in scale, while there is an absence of Parish Council support and evidence that justifies local demand for affordable housing.
15. For the above reasons, this proposed scheme would not accord with the approach to delivering affordable housing and the Council's Green Belt locational strategy set out in policies of the development plan, namely, Policies CS4A, CS5, CS19 and CS34 of the Core Strategy and Policy PSP7 and PSP40 of the Policies, Sites and Places Plan². As such it does not meet the exception under Paragraph 149 (f) and would be inappropriate development in the Green Belt as a result.

Openness

16. Paragraph 137 of the Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It has been held in the High Court that openness is epitomised by the lack of buildings or development.
17. The new dwellings, roads, attendant parking, and domestic garden paraphernalia would cover an extensive area of undeveloped pastureland. Moreover, the collective mass, height and volume of the proposed dwellings would be clearly visible from Abson Road through the proposal's likely access, and also from Back Lane to the north. It would therefore result in a moderate spatial and visual loss of openness.
18. The proposed development's westward advancement into the site from Abson Road would extend towards undeveloped green spaces near Southover Lodge. Although those green spaces, in part, surround that dwelling, they are nevertheless contiguous with open pastureland. Therefore, in that direction, the proposal would result in a significant encroachment into the countryside.

² South Gloucestershire Local Plan: Policies, Sites and Places Plan (November 2017) (Policies, Sites and Places Plan)

19. When the spatial and visual effects of the proposal are considered together, the proposal would have a moderate effect on the openness of the Green Belt.

Location of development

20. In arriving at my conclusions on the proposal's effect on the Green Belt above, I found that it would not fully accord with the exceptions policy for rural housing. In failing to meet those objectives, it would be in conflict with the Council's wider settlement strategy and its terms for delivering sustainable development.
21. It was also found that the site's location would be physically well-related to the settlement, however, that would not overcome the proposal's failure to meet the other aims of the exceptions policy.
22. Therefore, the location of the development would not be acceptable, in that it would be contrary to the rural housing and locational strategy of the development plan. Thus, the proposal would conflict with Policies CS4a, CS5, CS19, CS34 of the Core Strategy and PSP40 of the Policies, Sites and Places Plan. In so far as they relate to this appeal, those policies require proposals to be modest in scale, to be supported by a housing needs survey and by the appropriate Parish Council.

Infrastructure

23. Policy CS6 of the Core Strategy sets out the Council's approach to securing infrastructure and developer contributions on new development in order to improve the sustainability of communities.
24. The appellant has submitted a draft planning obligation. The undertaking covenants that the tenure of the properties shall all be for affordable housing. This would ensure they remain in that tenure to meet local housing need and affordability in the locality. This would also ensure the properties do not become open market dwellings in a location that would not be supported by the settlement strategy. Yet the planning obligation is undated and has not been signed by the Council. Even though the contents of the legal agreement appear acceptable, it has not been completed by the Council and cannot therefore be relied upon to secure the provision of affordable housing. The proposal would therefore fail to accord with Policy CS6 as there would be no certainty that affordable housing, envisaged by that policy, would be delivered.
25. Policy CS24 requires that new development should comply with local standards of provision in terms of green infrastructure. For this scheme the Council have indicated that space would need to be allocated for outdoor sports facilities and allotments. These have not been specifically identified in the submitted drawings or the draft agreement. Even, if they were I do not have a completed planning obligation to secure those facilities.
26. Therefore, in the absence of a completed planning obligation to secure affordable housing and the required green space infrastructure to meet local standards the scheme would fail to make adequate contributions towards local infrastructure. Therefore, it would conflict with the aims of Policies CS6 and CS24 of the Core Strategy. The scheme would also conflict with the SPD and the Framework.
27. It is noted that the Council did not provide the necessary engrossments following the appellant submitting a draft planning obligation to them. Yet, as I have found against the development in other respects, it is not necessary for me to pursue the Council to submit a completed planning obligation.

Other considerations

28. There are other considerations that would weigh in favour of the proposal including the provision of 15 affordable dwellings, yet I can only give limited weight to these in the absence of a completed legal agreement that would otherwise have secured their long-term provision. The provision of self-build units would meet an identified demand for this tenure in the county. But, similarly, there is no way to secure those dwellings as affordable units in the absence of a completed planning obligation, and accordingly only limited weight can be given.
29. The appellant has shown a commitment to provide a children's play area and landscaped open space on the site. However, as these would not comply with the Council's open space requirements for the locality, that scheme benefit only attracts minor weight.
30. Notwithstanding the proposal's failure to comply with the Council's locational strategy requirements, I have found the site to be in an accessible position close to the settlement's services and amenities, along with public transport connections to larger towns. Electric charging points for dwellings would encourage future electric car ownership at the site. There will also be positive benefits associated with the additional spending in the local economy by future residents. In combination, these considerations attract moderate weight in the proposal's favour.

Green Belt Balance and Conclusion

31. The erection of up to 15 affordable dwellings, (including self-build units) on the site would be inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The proposal would also cause harm to the spatial and visual openness of the Green Belt while it would not safeguard the countryside from encroachment. The location of the development also fails to accord with the Council's strategic housing strategy.
32. Additionally, the appellant has failed to meet the Council's exceptions for rural housing, as well as there being a lack of secured provision towards affordable housing and open space.
33. The other considerations that weigh in favour of the proposal only carry moderate weight when considered as a whole. Therefore, in this case they do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission for development in the Green Belt do not exist.
34. For the reasons set out above, I conclude that the proposal would be contrary to the Framework, the adopted development plan taken as a whole and there are no other material considerations to indicate a decision otherwise than in accordance with it. The appeal should therefore not succeed.

R.E Jones

INSPECTOR

Appendix 2



Appeal Decision

Site Visit made on 26 October 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal Ref: APP/R3705/W/21/3267698

Land west of Station Road, Nether Whitacre, Coleshill B46 2EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mrs Susan Kingston against North Warwickshire Borough Council.
 - The application Ref PAP/2019/0671, is dated 4 December 2019.
 - The development proposed is an outline application (access only) for the erection of up to no.30 affordable dwellings land west of Station Road, Nether Whitacre, Birmingham, B46 2EH.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application for planning permission on four grounds. I have had regard to this statement for the residential development of the site and the evidence of interested parties in framing the main issues.
3. Since the date that the appeal was registered the Council have adopted the North Warwickshire Local Plan 2021 (NWLP). For the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004 this is the development plan against which the proposal must be assessed. The main parties have had the opportunity to provide comments on any relevant implications for the appeal and have not therefore been prejudiced.
4. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
5. The application was submitted in outline with all matters reserved save for the details of the site access and I have determined the appeal on that basis.

Main Issues

6. The main issues are:
 - whether the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and the relevant development plan policy

- whether or not the location would be suitable for housing having regard to flood risk
- whether or not the location would be suitable for housing having regard to accessibility to services and facilities
- whether or not the proposal would conserve or enhance biodiversity
- the effect of the development on highway safety
- the effect of the development on the character and appearance of the locality
- if the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

7. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt. However, a number of exceptions are made. Of those exceptions the appellant directs me to (now) Paragraphs 149 e) and 149 f) relating to limiting infilling in villages and limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites) respectively.
8. Policy LP3 of the NWLP reflects the Framework's restriction to development in the Green Belt. It provides details of how Green Belt policy will be implemented at the local level. In relation to infilling, the Policy states that 'limited infilling may also be acceptable where a site is clearly part of the built form of a settlement, i.e. where there is substantial built development around three or more sides of a site.'
9. The site consists of an open grazing field bordered by mature hedging and intermittent trees. It lies adjacent to, but outside of, the southern edge of the NWLP's defined settlement area for Whitacre Heath. The land to the west is mainly open and includes a residential garden and grazing land. Some distance to the south is an isolated dwelling with intervening garden and poultry areas. A freestanding village hall lies to the east.
10. Although immediately adjacent to the well-defined edge to development along the southern boundary of the village, the undeveloped site is bordered by predominantly open land with only intermittent built development on the remaining 3 sides. The sites to the south, east and west could not be described as having 'substantial' amounts of built development. As a site that would extend into open countryside, it would neither infill between areas of built development nor round off the existing pattern of development. Accordingly, the site would conflict with the definition of 'infilling' in Policy LP3.
11. The proposal would deliver up to 30 units of affordable housing. Whilst support for the delivery of affordable housing, including on sites adjacent to settlement

- boundaries, is provided within Policy LP2 of the NWLP, in Green Belt locations this is subject to limited affordable housing for local community needs.
12. There is no dispute between the main parties that there is an affordable housing requirement across the borough. According to the appellant, a recent Affordable Housing Needs Update suggests that a greater proportion of affordable housing in the overall housing delivery figure is required.
 13. However, in the supporting text to Policy LP9 relating to affordable housing delivery, 'local' is initially considered at the ward level before broadening out to adjacent ward areas. The appellant suggests that the proposal will positively address the housing needs of the Parish and the village. However, there is little evidence of the actual needs arising from either the village, Parish or ward areas.
 14. I acknowledge that the Council's housing waiting list from early 2020 indicated 24 individuals or families awaiting accommodation that had expressed the area of Nether Whitacre as a desired location. However, that is not necessarily a measure of need derived from the locality. According to the Council, only 2 of those prospective individuals or families live in the vicinity. Whilst other legitimate need might arise from those with a connection to the local area or who work nearby, there is little substantive evidence to demonstrate a current local demand for the 30 units proposed.
 15. I also note the findings of a survey supporting the development of a Neighbourhood Plan. However, the information provided is limited. It does not provide an objective assessment of local need or a solid evidence base to support it. Furthermore, there is little before me to indicate that those views have since been incorporated into Policies within the NWLP or elsewhere.
 16. In relation to scale, Policy LP2 indicates a threshold of up to 10 units on undesignated windfall sites in the context of Category 4 settlements. This permissive policy for the expansion of small rural settlements must be taken with regard to the size of the existing settlement and the services within it.
 17. According to the Council, the proposal would increase the size of the village by 20% of the existing housing numbers. Even accounting for some flexibility in the approach to the delivery of affordable housing, in any village or town, this would be a considerable expansion. In the absence of any objectively assessed local need, a proposal for up to 30 units would neither appear to be limited in the context of a rural windfall site or to the scale of the local village.
 18. I acknowledge that some Category 4 settlements have seen recent site allocations for more than 10 units such that the aim of developing incrementally has been challenged. I also note that development outside settlement boundaries has contributed to overall housing supply. However, in the absence of details of the circumstances of those examples, I am unable to draw comparisons or otherwise to the case before me. They are not therefore strong arguments in favour of the proposed development.
 19. As a development described as being 'up to' 30 units, the overall number could be reduced in practice. However, any condition to substantially restrict unit numbers could nullify the benefit of a planning permission on the basis of viability, for example. It would not therefore be a reasonable proposition in the context of Paragraphs 55 and 56 of the Framework.

20. The introduction of a significant number of new buildings and supporting infrastructure in the Green Belt would give rise to a significant spatial loss of openness. Although enhanced hedge boundaries to the external edges of the site would limit the extent of losses to visual openness from surrounding areas, there would be moderate losses observed from the adjacent parts of Station Road and Cottage Lane.
21. For the above reasons, I find that the development would not accord with the relevant exceptions listed within Paragraph 149 of the Framework relating to the construction of new buildings in the Green Belt. It would constitute inappropriate development within the Green Belt that would erode its openness. As such it would be contrary to Policy LP3 of the NWLP and the Framework as they seek to keep land within the Green Belt permanently open.

Flood Risk

22. Significant concerns have been raised by local residents with respect to the flood risk status of the site. There is no dispute between the main parties that the site lies within a Flood Zone 3 location or that it is susceptible to ground and surface water flood risk. The Council has consulted both the Environment Agency and Lead Local Flood Authority who have raised no objections subject to conditional requirements in order to meet the policies set out in the Framework.
23. As a non-allocated site within an identified flood risk area and a proposal outside the scope of 'minor' development for the purposes of flood risk assessment, the Framework requires a 2-stage process to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The process consists of the sequential test and exceptions test which seek to minimise the risk of flooding both to the development proposed and the surrounding area.
24. The appellant's Flood Risk Assessment (FRA) refers to the fact that the Strategic Flood Risk Assessment and Preliminary Flood Risk Assessments are key sources of flood risk specific information. However, there is little subsequent evidence to indicate any site-specific findings from those assessments or that a sequential assessment of alternative sites has occurred.
25. I acknowledge that extensive discussions have taken place between the relevant parties in relation to design requirements, freeboard and drainage. However, as aspects of the development associated with proving the exceptions test, these are of little value at the 'in-principle' stage since the sequential test is not proven. In the absence of the detailed findings of a sequential test – a matter for determination by the local planning authority, I find there is conflict with the requirements of Policy LP33 of the NWLP and Paragraph 162 of the Framework as they seek to minimise the risk of flooding by avoiding development in high-risk areas.

Services and facilities

26. To achieve sustainable ways of living and working, the Council's Spatial Strategy requires that development takes place with regard to the size of an existing settlement and its range of services and facilities. It seeks rural development to be concentrated to Market Towns and Local Service Centres. In smaller villages additional development will be limited to no more than 10 units

at any one time depending on viability, services and infrastructure deliverability.

27. As I have found, the proposal of up to 30 units would lead to a relatively large expansion on the edge of a small village. Although the village area includes a number of community facilities, there are few services to support day-to-day living needs within the settlement. Furthermore, there are limited such provisions within easy or convenient travel distance by sustainable means of transport in the wider area. The use of infrequent public transport in the locality would be largely impractical. Although additional residents could support an existing or improved local bus service, I find that convenient access to shops, services and employment opportunities would be substantially dependent on the use of private motor vehicles.
28. The Framework acknowledges that opportunities to maximise sustainable transport modes will vary between urban and rural locations. It is also recognised that additional housing in rural locations can contribute to the vitality of smaller settlements and the services within them. Nevertheless, this does not dispose of the requirement to manage patterns of growth in the interests of reducing the need to travel and limiting reliance on fossil fuels to access goods, services and employment opportunities.
29. For those reasons, I find the proposed location for a significant increase in housing would conflict with Policy LP2 of the NWLP as it seeks to deliver development in sustainable locations, reduce travel demand and to achieve convenient access to services and facilities.

Highway safety

30. The site lies adjacent to Station Road, a 2-lane carriageway bordered by pavements on either side. The road speed limit is 30mph. The proposal includes details of a 5m wide access road flanked by footways forming a junction with Station Road opposite the village hall site. The plans indicate that visibility splays of 2.4x60m can be achieved to the nearside edge of the carriageway in both directions.
31. According to the Council's highway advisor, the road is used as a commuting route between main roads. Despite some existing on-street parking in front of terraces lying a short distance to the north of the site, the Council indicates that speeding traffic has been recorded. This is reflected in a number of third-party responses from residents living near to the site and is not disputed by the appellant. It is the appellant's stance that it is within the gift of the relevant authority to enforce the speed limit.
32. As a commuter route, the daily monitoring of traffic speeds would not be a realistic proposition. It would not therefore necessarily curtail the likelihood of traffic travelling above the speed limit in the locality. In the absence of information to demonstrate that the proposed visibility splay would be sufficient to allow safe access and egress from the site having regard to the local road speeds, I find that, on the balance of the evidence, the appellant has failed to demonstrate that the access would provide a safe means of access and egress at the site.
33. For those reasons, the proposal would conflict with Policy LP29 of the NWLP as it requires development to provide safe and suitable access for all users.

Biodiversity

34. The substantial area of the site consists of improved grassland which is used for the grazing of horses. Additionally, the site benefits from mature in-hedge native trees and hedgerows to much of its outer margins. The appellant's ecological advisor suggests retention and protection of the boundary features due to their moderate to high wildlife value.
35. Some of the roadside hedge would require removal to enable the proposed formation of the access road and pavements. Additional parts of the hedge would need to be removed to achieve suitable visibility splays along the site's frontage. From the evidence before me, it is unclear how much hedge would require removal, however, compensatory hedge planting to replace removed or reduced depths of hedge could be secured through planning condition to retain or improve its ecological value.
36. The Council's ecological advisors identify the site as having connectivity value with nearby sites of acknowledged biodiversity interest. The appellant's appraisal identifies that the majority of the site's value could be retained with enhancements incorporated into the detailed design of the development. These could include measures such as more diverse hedgerow species, the installation of nesting boxes and replacement tree planting, for example. Areas of enhanced grassland could also be provided.
37. However, an oak tree identified as having high potential for bat roosting is indicated for removal on the detailed plans of the access. Whilst compensatory planting could be provided within the site, Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on me to have regard to the likelihood of European Protected Species being present and affected by the proposed development. The appellant's ecological assessment¹ identifies that the site has potential for bat foraging and commuting and lies in an important location for bat foraging and roosting.
38. Circular 06/2005 states that 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.' In the absence of the additional survey effort recommended in the ecological appraisal, I cannot be certain that the proposed works would not have an adverse impact on bats in an area where their presence is highly likely.
39. Therefore, whilst I acknowledge other biodiversity enhancements and connectivity would be possible, I am unable to ascertain the effect of the proposals on protected species. The proposal therefore conflicts with Policy LP16 of the NWLP as it seeks to protect features of importance for nature conservation.

Character and appearance

40. The site lies in area LC9 'Hoggrill's to Furnace End – Arden Hamlets' landscape character area identified by the North Warwickshire Landscape Character Assessment 2010. The area is characterised by dispersed small settlements within a low undulating landscape of predominantly irregular fields and pockets

¹ Phase 1 Preliminary Ecological Appraisal Ref Station0919_PEA

of woodland. The rural road and field networks are often bordered by hedges incorporating trees.

41. Development in the locality is derived from numerous phases of small-scale infill and incremental extension of the built envelope of the village. This results in a variety of building sizes and designs. The majority of the local development fronts on to the historic road network such that it actively contributes to the mixed character of the local townscape and individual street scenes.
42. I acknowledge the detailed design of the scheme is not before me and I have little doubt that the buildings could be designed to reflect the local mix of house types. Nevertheless, the wholesale development of a single large site would neither be typical of the incremental growth of the village or linear pattern of roadside development.
43. The identified necessity to retain the ecological value of the boundary hedges and trees would preserve the well-defined site boundaries. Whilst this would preserve the characteristic landscape elements, it would ensure that the proposal appears as an inward-looking form of development. In contrast to the existing arrangement of development, this would provide little active contribution to the respective road frontages of the site. It would appear as an enclosed annexed area with poor integration with the more organically developed form of the village.
44. Furthermore, any requirement to significantly artificially raise the ground floor levels of the buildings, as identified in the FRA, would likely give rise to an incongruous arrangement of the development in the context of the surrounding buildings. Whilst not determinative in the context of an outline application, this would almost certainly frustrate attempts to assimilate the development alongside the settlement area.
45. Nevertheless, for the above reasons, I find the proposal would integrate poorly with the character of the village. It would conflict with Policies LP1 and LP30 of the NWLP as they seek proposals to integrate and harmonise with their immediate setting and wider surroundings and positively improve the settlement's character.

Other Considerations

46. The delivery of a potential range of affordable housing types and tenures to meet needs identified within the wider borough area and the contribution to housing stock in response to the Government's objective of significantly boost the supply of homes would be a significant benefit of the development. The homes could be secured for those purposes through a planning obligation under s106 of the Town and Country Planning Act 1990, as provided for by the appellant.
47. In support of the proposal, the appellant suggests that the site is under-utilised, that it is available and deliverable, and would make best use of the land. It could be delivered in a short timeframe to meet a step-change requirement in the delivery of housing across the borough. The Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. However, in the

context of the Council's current healthy housing land supply, this is a matter of only moderate weight.

48. The scheme could meet other policy requirements in relation to the provision of, or contribution to, public open space, and other necessary supporting infrastructure. However, as requirements of the development plan, these are not benefits in favour of the proposal.
49. I note the concerns of the appellant in regard to the level of communication and engagement by the Council and their advisors throughout the course of their consideration of the planning application. However, this is not a relevant matter to the consideration of this appeal.

Planning balance and conclusion

50. The erection of up to 30 affordable dwellings on the site would be inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it.
51. The proposal would cause harm to the spatial and visual openness of the Green Belt. It would be located in an area identified as being at high risk of flooding. The location is distant from services to meet day-to-day living needs and would be largely dependent on the use of private motor vehicles.
52. Additionally, the appellant has failed to demonstrate that a safe means of access could be provided having regard to the local highway conditions, or that the access could be provided without harm to protected species interests. Furthermore, the large-scale site development would contrast with the predominant characteristic layout of incremental roadside development in the locality.
53. The considerations presented by the appellant in relation to affordable housing delivery do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission for development in the Green Belt do not exist.
54. I am aware that the site lies within an impact zone of the nearby Whitacre Heath Site of Special Scientific Interest (SSSI). SSSIs are protected under the Wildlife and Countryside Act 1981 from damaging operations, including development proposals. As I have found against the development, it is not necessary for me to consult with the statutory nature conservation body or consider this matter further in the particular circumstances of the case.
55. For the reasons set out above, I conclude that the proposal would be contrary to the adopted development plan taken as a whole and there are no other material considerations to indicate a decision otherwise than in accordance with it. The appeal should therefore not succeed.

R Hitchcock

INSPECTOR