

WHEATMANPLANNING

Town & Environmental Planning Consultants

Supporting Statement

Land adjacent to Lesita , Buxton Road, Cawston

Outline Application for Dwelling



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1 Introduction

- 1.1 The following Supporting Statement incorporating a 'Design and Access Statement' and a 'Sustainability Appraisal' has been prepared by Wheatman Planning Ltd on behalf of Mr B Kemp (The Applicant), in relation to an outline application at Buxton Road, Cawston NR 10 4HN for the erection of a dwelling, with all matters reserved except access. Although this is an outline application, an indicative plan has been prepared and forms part of this application to demonstrate that an appropriate scheme can be delivered on the site and the principle of development is acceptable.

2 Development Description

The proposal

- 2.1 This is an application for outline planning permission for the erection of a single dwelling on land adjacent to "Lesita", Buxton Road, Cawston. The site is unfettered in ownership terms and therefore available. The intention is once outline consent is granted, to obtain approval of the reserved matters and develop the site as soon as practicable for the delivery of the dwelling.
- 2.2 The drawing accompanying the application illustrates one possible layout of the site and design for the property. The precise details are reserved matters.

Site Context

- 2.3 The application site has an area of approximately 0.09 hectare and is on the fringe of existing development, being a group of buildings forming cluster to the east of the main built up area of Cawston.
- 2.4 The site itself is part of an area of open ground, probably once a field or paddock, but now largely unused except for northern part that has been used for parking and storage to varying degrees; the use of this area appears to be associated with the large area of land to the east and north where this land is not currently used for any agricultural purposes but is filled with some unused rubbish.
- 2.5 To the west, the property known as Lesita is a brick and tile bungalow, separated from the application site by a mature hedgerow. To the north beyond the remainder of the field, are properties on Back Lane, including a recently constructed two storey house and a barn with consent for conversion to residential, and also a yard used for storage.



2.6 The site is not within a Conservation Area, the building is not listed.

3 Planning Policy Considerations

- 3.1 The relevant Development Plan for Council (BDC) comprises the Joint Core Strategy for the City of Norwich, South Norfolk, and Broadland District Council (adopted in 2011) (hereafter referred to as the JCS) and the adopted Development Management Policies Document (DMPD) and the Site Specific Allocations and Policies Document (SSAPD) adopted in August 2015 and May 2016 respectively.
- 3.2 The village of Cawston falls within the Norwich Policy Area (NPA), under JCS Policy 15 as a linked Service Village. Land in each Service Village land has been allocated for small scale housing development subject to form and character considerations.

Site Specific Allocations and Policies Document (SSAPD) – 2015

- 3.3 The SSAPD provides a settlement overview reiterating that development is acceptable in principle within "settlement limits". There is no specific policy or allocation that relates to the application site within this Plan.



Site Location with Cawston settlement limits shown

Form and Character of Cawston

- 3.4 The main part of Cawston lies approximately 1100m to the west of the application site. This part of the village is centred on the B1145 with network of roads around which the main area built up area is located. Outside the main area of the village there are further clusters of development, the largest being the group of dwellings centred around Back Lane and Eastgate.
- 3.5 The application site is located on the fringe of a cluster of houses around Falgate, Back Lane and Buxton Road. Further to the south along Easton Way this cluster extends to be come known as Eastgate. This area is characterised by the close grouping of dwellings, and strong hedgerows to the east. Beyond, the area surrounding the cluster and between the main part of the village is characteristically by larger fields with intermittent hedgerows or none, offering longer distance views typical of the open countryside landscape of this part of the county.

Services and Community Facilities

- 3.6 Cawston has a limited range of services and facilities that include a primary school of 6 classes, post office and convenience store, Bell In public house, village hall, playing field and church. There are several employers within the parish, including business at the Old Station Yard and Old Winery Business Park, including Broadland Wines.

Development Boundary and Constraints

- 3.7 The development boundary has been drawn to include the main built area of the settlement and also includes the allocated site CAW2 (0.8ha). In Cawston, the main area of development around which the settlement boundary has been drawn, is centred on the framework of roads provided by the B1145, Chapel Street and Norwich Road.

Development Management Policies Document – 2015

- 3.8 The proposed infill plot will be assessed against several policies contained within the DMPD:

Policy GC1 Presumption in favour of sustainable development - This policy advocates that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy GC2 Location of new development - New development will be accommodated within the settlement limits defined on the policies map. Outside of these limits development which does not result in any significant adverse impact will be permitted where it accords with a specific allocation and/ or policy of the development plan.

Policy GC4 Design - This policy sets out the Councils general principles relating to all development. All proposals should have regard to a range of criteria in order to achieve a high standard of design.

Policy EN1 Biodiversity and Habitats - Proposals for development will be expected to protect and enhance biodiversity, avoid fragmentation of habitats and support delivery of an integrated green infrastructure network.

Policy EN2 Landscape - In order to protect the character of the area,

proposals should have regard to the Landscape Character Assessment DPD and any impact on identified features of interest specified in this policy.

Policy TS3 Highway Safety - Development will not be permitted where it would result in significant adverse impact on the satisfactory functioning or safety of the highway network.

Policy TS4 Parking Guidelines: -Appropriate parking and manoeuvring space should be provided in new developments. Relevant standards are set out in the Council's adopted SPD.

Policy CSU5 Surface Water Drainage - Amongst other things, mitigation measures to deal with surface water arising from development proposals should be incorporated to minimise the risk of flooding on the development site without increasing flood risk elsewhere.

Assessment of the NPPF (2019)

3.9 Paragraph 10 of the NPPF states that sustainable development is pursued in a positive way, *"at the heart of the Framework is the presumption in favour of sustainable development"*.

3.10 Paragraph 11 of the NPPF then states that decisions should apply a presumption in favour of sustainable development, while Paragraph 8 sets out three objectives for sustainable development:

Economic - Contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places.

Social - Supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of houses can be provided to meet the needs of present and future generations.

Environmental - Contributing to protecting and enhancing our natural, built and historic environment; including making effective use of land.

3.11 To achieve sustainable development, the NPPF identifies that economic, social and environmental net gains must be sought jointly and simultaneously. Accordingly, it is considered that there is a strong argument in support of the proposal constituting sustainable development - further details can be found in Section 6 'Assessment of Sustainable Development'.

3.12 Another dimension of the NPPF is the role in boosting the supply of housing in England. The NPPF requires local planning authorities to identify and keep up to date a deliverable five-year housing land supply. The site as already mentioned is located within the Norwich Policy Area and already enjoys a five year housing land supply, however, the proposal would undoubtedly contribute to supporting local services and facilities as well as help the Council and wider Government meet housing targets.

3.13 This is acknowledged by the Council's Annual Monitoring Report which states that *"irrespective of the housing land supply situation, the Greater Norwich Authorities will continue to take a positive approach to development proposals that complement,*

rather than detract from, the existing development strategy.”

- 3.14 Paragraph 38 states that local planning authorities should approach decision-taking in a positive and creative way, and “..... *should seek to approve applications for sustainable development where possible.*”
- 3.15 Accordingly, the proposal is sustainable in line with the NPPF and as such the presumption in favour of the development should be considered in determining the application.

Assessment of National Planning Policy Guidance

- 3.16 In relation to design, the NPPG provides specific advice on how to achieve it most effectively.
- 3.17 The NPPG states that:

“Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations.”

“Good design should:

- ensure that development can deliver a wide range of planning objectives
- enhance the quality buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well being
- address the need for different uses sympathetically.

- 3.18 With the above in mind the development site should be considered in line with National Planning Practice Guidance.

Self & Custom Build Homes

- 3.19 Legislation has been introduced and guidance has been published to support an increase in self-build and custom housebuilding:

- The Self-build and Custom Housebuilding Act (March 2015)

Under the Act prospective self and custom builders are able to register their interest with a local authority, who will then be required to offer suitable serviced plots for sale at market value. Since the 1st April 2016 the Act has placed a duty on local authorities to keep a register of individuals and community groups who have expressed an interest in acquiring land to bring forward self-build and custom-build projects. Local authorities are also required to take account of and make provision for the interests of those on such registers in exercising their planning and other functions, and in their Local Plans and five year housing supply figures.

- The Self-build and Custom Housebuilding (Register) Regulations 2016

- Self-build and Custom Housebuilding Planning Practice Guidance (April 2016)

This makes it clear that local planning authorities need to identify local demand for custom built or self-build and make provision for it in their local plans. Paragraph 50 requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, including people wishing to build their own homes. Paragraph 159 requires local planning authorities to have a clear understanding of housing needs in their area and prepare a Strategic Housing Market Assessment that addresses the need for all types of housing, including people wishing to build their own homes.

The National Planning Practice Guidance was updated to take account of the 2016 Act, and explains 'authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period'. Further *"At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period"*. The implication of the Act and the guidance is that the Council has to deliver a specific quota of self-build/custom build plots.

- Housing and Planning Act 2016

Clause 10 of the Act introduced a statutory duty requiring local planning authorities to grant sufficient suitable development permissions to meet the demand for self-build/custom build in their areas. The evidence to show the demand for self-build and custom housing would be the register held under the 2015 Act.

4 Design and Access

Principle of development

- 4.1 The site is located within a strongly identifiable group of dwellings off Back Lane, Falgate and Buxton Road. It is considered that the proposal would be economically, environmentally and socially sustainable – see Section 6 for details – therefore conforming with the NPPF guidance.

Use

- 4.2 The application site forms part of a large area previous used for storage of rubbish, cars and materials. The proposed use involves part of this site, now divorced from this larger area by a close boarded fence on the northern boundary, being proposed as the site for one detached dwelling.

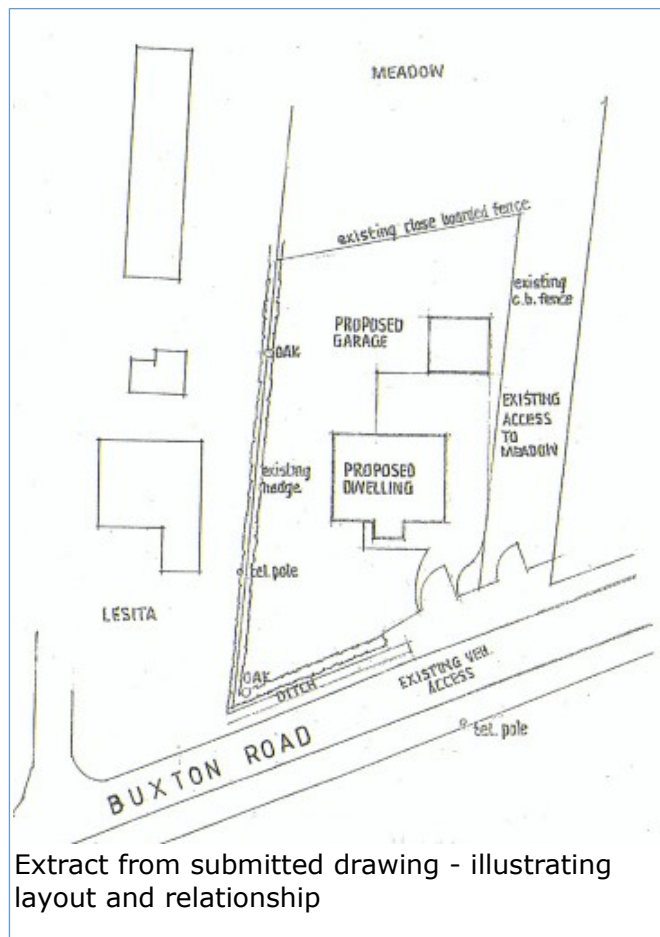
Character of the Area

- 4.3 The site is located on the fringe of a cluster of dwellings to the east of the main part of the built up area of Cawston. The site is not in agricultural use, neither are the fields to the east and north. Within this immediate block bounded by Buxton Road and Back Lane, these small fields are divided by mature hedgerows that screen views into and out. The application site has strong defensible boundaries that offer practical separation from the open countryside to the south and east where longer distance views are obtained.
- 4.4 The character of the area is primarily a cluster of dwellings, and the application site is on the fringe, with the agricultural landscape of the countryside beyond.

Scale

- 4.5 The proposed design of the dwelling is intended to be simply appearance, to accord with the overwhelming style of the dwellings in the area. This would allow the building to assimilate with its surroundings successfully. The position of the proposed property within the site, and its design would enable any impacts on the neighbouring occupants to be adequately mitigated.

Design



- 4.6 The proposal comprises an application for outline planning permission for one dwelling; precise details would be submitted at the reserved matters stage. It is anticipated that the design would be simple, creating a contemporary unit that echoes the precedent of the buildings in the surrounding area. Sketches of the dwelling are shown on drawing no. 2566.01. The design would therefore accord with Policy 2 of the JCS and policies GC4 of the DMPD.

Layout

- 4.7 The precise layout would be decided at the reserved matters stage but an indicative site layout plan accompanies this application and clearly demonstrates that the dwelling can satisfactorily be accommodated on the site with adequate amenity, parking and turning areas.

Amenity

- 4.8 The dwelling would be laid-out and designed with sufficient distance from the boundaries to minimise impacts on neighbouring property, Lesita. As such, there is sufficient amenity space for residents and any potential for overlooking into the adjacent dwelling could be sufficiently addressed through design of the house, position on the site, and retention of the boundary hedgerow. This scheme is therefore

considered to accord with technical considerations in relation to amenity of residents.

Appearance and Materials

- 4.9 The form of the dwellings would allow it to slot into the surrounding environment without being evasive into the countryside; the typical open landscape is beyond the application site. The indicative layout demonstrates that the form of the development on the site is sympathetic to the built form of the existing dwellings in this cluster. The materials of the proposal would be decided at the reserved matters stage but would likely typically consist of pantiles and brick to be sympathetic with the palette of material used on the buildings in the surrounding area.

Boundary Treatment

- 4.10 This would be addressed at reserved matters stage, but suitable treatment for the boundary between the proposed dwelling and existing dwelling would be to retain, and where necessary enhance the existing hedgerow; elsewhere, the existing boundary hedgerows would be retained and enhanced where they are not affected by the proposed access drive. This would ensure when viewed from the wider area that the character of this area is retained, with dominant hedgerows, and also provide adequate privacy between the neighbouring and proposed dwellings.

Access and Highways

- 4.11 Access to the site would be via Buxton Road to the south of the site. Visibility is good and the road is subject to a 30mph speed restriction. This scheme is therefore considered to accord with the principles of DMPD policies TS3 and TS4 relating to highways safety and parking respectively and JCS policy 6.

Delivery of the Site

- 4.12 The NPPF places great emphasis on deliverability. The application proposals are deliverable in the short term. Following the grant of outline planning permission, the applicant will following the subsequent approved reserved matters, build out the site in accordance with the plans.

5 Assessment of Proposed Plot

- 5.1 Local plan policies seek to protect the countryside from inappropriate development and to concentrate development within defined settlement boundaries. Recent case law however clarifies how the meaning of "isolated homes" might be interpreted, *Braintree District Council v Secretary of State for Communities and Local Government*, *Greyread Limited and Granville Developments Limited*, in the context of new homes in the countryside.
- 5.2 This case deals with the earlier version of the NPPF, commenting that the then para 55 provides: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in villages nearby."*
- 5.3 The judgement concluded that it is reasonable to expect that public transport is likely to be limited in rural areas and that people may have to travel by car to a village or town to access services. Mrs Justice Lang in the lower court indicated *"In applying NPPF 55 and considering whether proposed development amounted to isolated homes in the countryside it was irrelevant that the development was located proximate to other residential dwellings. The key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community."*
- 5.4 The latest version of the NPPF expressly recognises that development in a small village may enhance and maintain services in a neighbouring village, as people travel to use them. There is no national planning policy against development in settlements without facilities and services. On the contrary, paragraph 78 says: *"where there are groups of similar settlements, development in one village may support services in a village nearby"*.
- 5.5 In the above case, Justice Lindholm stated (para. 32) that *"the NPPF contains no definition of a "community", a "settlement", or a "village". There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings..... It does not stipulate that to be a "village", a settlement must have any "services" of its own, let alone "services" of a specified kind."*
- 5.6 In practice, particularly in rural villages where development in one village is very likely to support services in another, the courts advise a flexible, clear and logical approach, as in: *Dartford Borough Council v SSCLG & ors [2017] EWCA Civ 141* and *Braintree DC v SSCLG & ors [2018] EWCA Civ 610*.
- 5.7 Housing proposals in rural settlements can be supported where they will enhance or maintain the vitality of rural communities, providing the supply of housing required to meet the needs of present and future generations. Homes in very small villages that are not truly 'isolated' can do just that, contributing to sustainability because of their proximity to other homes.
- 5.8 There is a clear indication here that applying a rigid policy against all new residential development proposals in the countryside that lie outside defined settlement boundaries is not in keeping with the guidance offered in the NPPF. The cases referred

to demonstrate there are instances where support can be offered to proposals where the site is found in close proximity to existing dwellings and where ultimately the occupants of the new dwellings will provide support for existing services and facilities, not just in the settlement where the site is located but also in nearby settlements.

- 5.9 The 2019 (updated) Framework offers some flexibility in where housing might occur within rural areas by making no reference to settlement boundaries or restrictions on dwellings outside of these. Paragraph 103 requires that planning decisions take account of the fact that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In addition, paragraph 78 promotes growth that supports local services, noting that where there are groups of smaller settlements, development in one village may support those in a village nearby. There is, therefore a more nuanced approach adopted by the NPPF with its general aim to steer housing to where there are a good range of services nearby.
- 5.10 We would argue as demonstrated in Section 6 below that these circumstances apply in the instance of this site. The site is situated within a large group of existing dwellings and in close proximity to the main pocket of development in the village and the good range of services available in the linked settlement of Mulbarton.
- 5.11 The potential plot is adjacent to "Lesita", a detached bungalow immediately to the west of the site. located on the fringe of the cluster of dwellings to the east of the main part of the settlement as identified within the local plan (see paragraph 2.4 above).
- 5.12 Buxton Road extends in an easterly direction off Falgate, towards Aylsham. This cluster of residential development that extends around Falgate to the west and Back Lane to the north and along the eastern section of Buxton Road up to the application site.
- 5.13 This entire group of development lies outside the Local Plan identified settlement boundaries for Cawston to the west, but this is a reasonably large close-knit group of dwellings. The application site is located on the fringe, but within strong defensible boundaries identified with the group of dwellings and not the open character of the landscape beyond.



Site in Context

- 5.14 The site is defined by the strong hedgerows to the east, west and south. With a close boarded fence on the northern boundary separating it from the adjacent meadow that has been used for storage of cars, rubbish and various materials. Further to the north is a barn with consent for conversion to residential.
- 5.15 In order to promote self-build as a means of boosting housing supply, the Government requires Local Planning Authorities to take steps to understand the demand for self and custom build plots in its relevant Housing Market Area and planning area. The most recent SHMA update report identified at September 2017 there were only 51 entries on the Broadland Self Build Register. The Report notes that *"all the Central Norfolk planning authorities [including Broadland District Council] have established their Custom Build Registers. The current demand from these Registers accounts for less than 1% of the OAN, and therefore much less than the potential interest in self-build."*
- 5.16 It is also of relevance to note that the Housing and Economic Needs Assessment section of the PPG recommends that in order to "obtain a robust assessment of demand for this type of housing in their area, local planning authorities...can also supplement the data from their registers with secondary data sources such as building plot search websites, 'Need-a-Plot' information available from the Self Build Portal and enquiries for building plots from local estate agents".
- 5.17 The PPG provides further explanation of how a local authority may demonstrate its duty with regard to the Register in carrying out its planning function at paragraph 014, where it states that *"the registers that relate to an area may be a material consideration in decision taking."*
- 5.18 A recent appeal decision, Lauren Land Developments Ltd against North West Leicestershire District Council (APP/G2435/W/18/3214451 – copy in Appendix A), provided the Inspector with the opportunity to opine that in the absence of primary legislation providing enough clarity regarding the way in which local authorities are to monitor the provision of suitable development permissions to meet demand on their Register, this appeal decision provides a precedent for the way in which this should be undertaken.
- 5.19 A further appeal decision in September 2019, Wyboston Lakes Ltd against South Cambridgeshire District Council (APP/W0530/W/3230103 – copy in Appendix B) highlighted a shortfall in the provision of land to meet the self build and custom home demand. Additionally, while the Authority was also able to demonstrate a five year housing land supply, the Inspector recognised this to be a minimum figure in the light of the NPPF, which encourages significantly boosting the supply of new homes. In this situation, the Inspector considered there were factors that weighed heavily in favour of the development, that would justify departing from the development plan.
- 5.20 With the proposal being sustainable development, it would also fall to be considered as a plot for self-build.
- 5.21 The policies of the Development Plan, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Despite the Council being able to demonstrate a five-year housing land supply, and in view of the above-mentioned appeal, this must be recognised as a minimum figure in light of the NPPF, which encourages significant boosts to the supply of homes.
- 5.22 The above-mentioned appeal decisions place the burden of proof on authorities to demonstrate provisions are in place to ensure permissions to meet demand for self

build and custom homes, that would be developed in a manner that accords with the legal definition of self-build and custom housebuilding. In the absence of this a site would not constitute the legal definition so should /not be counted towards meeting demand on the register.

- 5.23 The proposal would make a contribution towards the delivery of self-build plots. Whilst the site is adjacent to a large group of dwellings outside the Local Plan settlement boundaries, it is sustainable development. A range of services, shop, post office, primary school and transport links the main part of the village are accessible and would meet the everyday needs of the potential residents without having to travel further afield. There are economic, social and environmental sustainability benefits attributed to the development.
- 5.24 Having regards to the above, it is considered that the issue of self-build and, specifically, the delivery of self-build plots in an area of identified demand, is a significant material consideration to be weighed in the Planning Balance.

6 Assessment of Sustainable Development

Introduction

- 6.1 In making this assessment the following factors have been addressed:
- Deliverability of the site
 - Economic considerations
 - Social considerations
 - Access to services and facilities
 - Environmental considerations
- 6.2 It is considered that in doing so this statement can demonstrate that the proposal is sustainable as defined by the NPPF and a
- 6.3 s such there is a presumption in favour of sustainable development.

Deliverability of the site

Available – The site is owned freehold by the applicant who wishes to promote the site for development. There are no known issues with the site to prevent the proposal.

Suitable – The site is located on the fringe of a significant group of dwellings in Cawston, with the main village providing a number of community services and facilities. Delivery of the site would help the Council increase housing supply as well as meeting central government desires for the provision of further housing across the country. Additionally, it would also meet the demand for a self-build home.

Achievable – Development of the site would commence and be delivered within the 5-year required period. There are no known physical or legal reasons why development on this site cannot be achieved within the plan period.

Economic Considerations

- 6.4 It is considered that the proposal would result in a number of economic benefits directly within Cawston. Work and employment would be created for local people and businesses involved in the physical construction of the house.
- 6.5 Additionally, it is considered that the occupiers of the dwelling would make use of local services and facilities, contributing to their vitality, viability and longevity, thus contributing to the local economy and support these facilities and services in accordance with the NPPF policy.

Social Considerations

- 6.6 This proposed dwelling would help the District increase housing supply as well as contribute to supporting and maintaining local services and communities, consistent with the stated aims of the Council's recent Annual Monitoring reports.

Access to Services & Facilities

- 6.7 The application site is located for access to a variety of services, facilities and employment opportunities within Cawston and the wider Broadland area, more immediate being Reepham and Aylsham.
- 6.8 Services and facilities considered advantageous when assessing a site's sustainability fall under the following headings:
- Education
 - Religion
 - Food and Drink
 - Transportation
 - Community
- 6.9 Locations are not expected to display the full range of services and facilities required on a day to day basis, indeed recent court cases have highlighted it is not necessary for the village to have any services, just good access to basic services and facilities.
- 6.10 The Cawston has a range of services and facilities, these include:
- Bus Service – Sanders Coaches operate a number of services stopping at the Market Place (43, 45A, 80, 605, 602 and 610). These services through the main part of the weekdays, offering regular connections to Reepham, Alysham and Norwich.
- Primary School
- The Market Surgery - Branch Surgery
- Post Office
- Convenience Store
- Playing field
- Bell Inn Public House
- Social and community hall
- Two area of employment uses

- 6.11 It is therefore considered that the site has easy access to sufficient services and facilities offered for new housing and as such the site can be considered a sustainable location in line with the NPPF.

Environmental Considerations

- 6.12 It is not considered that there would be any unsatisfactory impacts in relation to the environment.
- 6.13 Furthermore, there are local facilities and services, identified above, that are within cycling distance and the proposal would not result in the over dependence on private motor vehicles.
- 6.14 The proposal would not be introducing a type or pattern of development that does not already exist within the locality and there is sufficient screening of the site by existing development, hedges, and trees. Enhanced boundary treatments would be proposed at reserved matters stage and could form a condition subject to outline approval.

7 Conclusions

- 7.1 We would stress that Paragraph 8 of the NPPF makes it clear that the three objectives for sustainable development should not be considered in isolation as they are mutually supportive. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. Considering all three dimensions, there would be sufficient positive benefits overall for this proposal to be regarded as sustainable development. As such, this accords with the general principles of Policy GC1 Broadland District Council's Development Management Policies Document. It also accords with the favourable consideration provided in the NPPF for sustainable development.
- 7.2 To conclude, this proposal is for outline planning permission with all matters reserved bar access for the erection of a dwelling on land off Buxton Road, Cawston. The purpose of this report is to demonstrate that an appropriate scheme can be delivered on the site and the principle of development is acceptable.
- 7.3 The site is part of an area formed by an established group of dwellings and buildings which form part of the wider village, it would have no undue impact on the landscape or open countryside beyond this grouping. There is access to a range of services and facilities, as noted above in paragraph 6.10 thus meeting the objectives of the NPPF, it is therefore a sustainable location.
- 7.4 This grouping of dwellings does not have any services or facilities located within the group, is consistent with the NPPF on two counts. Firstly, there is no stipulation that sustainable development has to be within groups, clusters or villages where services are provided. Secondly, sustainable transport opportunities are likely to be more limited in rural areas. Furthermore, it expressly recognises that development in one settlement may maintain services in neighbouring villages.
- 7.5 Whilst the Norwich Policy Area has a five-year housing land supply, this new dwelling would, in a modest way, help contribute towards the Broadland District Council's and wider government's aspiration to increase housing; but particularly the drive towards providing a supply of plots for Self and Custom Build Homes.
- 7.6 A single dwelling on the proposed site would form a viable and sustainable proposal in keeping with both national and local policy. It is considered that the proposed scale, density and pattern of development is responsive of and sensitive to the immediate setting and the wider village. The proposal would not be obtrusive or visually dominant being screened from wider views by the surrounding development and the design enables the development to assimilate with the wider area thus reducing any associated impact. The design would relate well to the immediate locality in terms of height, form and appearance. The site is well screened and separated from the wider open landscape beyond. Consequently, it is our belief that the proposal accords with Development Management Policy GC4 and Policy 2 of the Joint Core Strategy.
- 7.7 The proposal has adequate highways access and parking facilities. The plot has an individual access off St Nicholas's. Accordingly, the addition of the new dwelling would have a safe access to the highway and also not impact on the amenities of the host dwelling.

- 7.8 There would be no adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole. The proposal amounts to sustainable development and it is also consistent with the presumption in favour of sustainable development.

Appendix A

Appeal - APP/G2435/W/18/3214451

Woodville, Swadlincote



Appeal Decisions

Site visit made on 4 June 2019

by Harold Stephens BA MPhil DipTP MRTPI FRSA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2019

Appeal Ref: APP/G2435/W/18/3214451 (Appeal A)

Land off Hepworth Road, Woodville DE11 7DW

- 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 Lauren Land Developments Ltd against the decision of North West Leicestershire District Council.
- The application Ref 16/01191/OUTM, dated 11 October 2016, was refused by notice dated 16 May 2018.
- The development proposed is self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline – access and layout included) at Land Off Hepworth Road, Woodville, Swadlincote.

Appeal Ref: APP/G2435/Q/18/3214498 (Appeal B)

Land off Hepworth Road, Woodville DE11 7DW

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
- The appeal is made by Lauren Land Developments Ltd against the decision of North West Leicestershire District Council.
- The development to which the planning obligation relates is Part Three of the Schedule to the 2004 Section 106 Agreement (dated 3 June 2004) relating to application 02/01416/OUT.
- The planning obligation, dated 3 June 2004, was made between South Derbyshire District Council, North West Leicestershire District Council, Derbyshire County Council, Leicestershire County Council, Tapton Properties Limited, the Governor and Company of the Bank of Scotland and George Wimpey North Midlands Limited.
- The application Ref 16/01191/106A, dated 11 October 2016, was refused by notice dated 7 August 2018.
- The application sought to have the planning obligation discharged.

Decisions

1. **Appeal A** is allowed and planning permission is granted for self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline – access and layout included) at Land Off Hepworth Road, Woodville, Swadlincote in accordance with the terms of the application, Ref 16/01191/OUTM, dated 11 October 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

2. **Appeal B** is allowed. The planning obligation, dated 3 June 2004, relating to Part Three of the Schedule to the 2004 Section 106 Agreement, no longer serves a useful purpose and is discharged.

Background and Planning History

3. Appeal A and Appeal B both relate to the same site. There is a close relationship between the two proposals. For the purposes of clarity I shall refer to the S78 appeal against the refusal of outline planning permission for a self and custom-build residential development consisting of 30 plots with a new access and supporting infrastructure (outline -access and layout included) on land off Hepworth Road, Woodville as Appeal A and the Section 106B appeal against the refusal of the Section 106A application to discharge the application site from the obligations in Part Three of the Schedule to the 2004 Section 106 Agreement as Appeal B.
4. A Planning Obligation in the form of a S.106 Agreement dated 24 April 2019 was submitted in support of the appeal proposals. A Deed of Variation dated 7 June 2019 was also submitted in response to Leicestershire County Council's (LCC) revised request for education contributions, in accordance with its Statement of Case dated 23 April 2019 and its subsequent e-mail dated 13 May 2019 to the Planning Inspectorate. These documents address all of the matters sought by the North West Leicestershire District Council (NWLDC) and LCC in connection with the provision of community and other services arising from the development. The Planning Obligation, including the Deed of Variation, is a material consideration in these cases. I return to the Planning Obligation later in these decisions.
5. The appeal site measures about 1.9 hectares in extent, is broadly triangular in shape and is situated to the south east of Woodville. It is bounded to the north and west by the recently constructed Taylor Wimpey residential development. The eastern boundary comprises a mature hedgerow and public footpath. Beyond this to the east of the site lies open grassland. The site is bounded to the south by Hepworth Road. The appeal site is currently undeveloped and is predominantly occupied with areas of scrubland and grassland along with several patches of marsh and some small ephemeral ponds. The appeal site is located outside the Limits to Development as defined in the adopted Local Plan.
6. Although there is no relevant planning history on the appeal site it is noteworthy that the appeal site forms part of the 48.77 hectares Woodville Woodlands development which encompasses land within the administrative areas of both South Derbyshire District Council (SDDC) and NWLDC. Following the grant of outline planning permission for the various aspects of the Woodville Woodlands development on 3 June 2004¹ and 11 June 2004², the residential development of the scheme has come forward in several distinct phases.
7. The appeal site was not included in any phase of the residential development because the plan annexed at Appendix 1 of the 2004 S.106 Agreement for the Woodville Woodlands scheme identifies several areas of the site for 'Forest Planting'. As a result, some of the appeal site is included within the 9.85

¹ SDDC planning application 9/2001/0050

² NWLDC planning application 02/01416/OUT

hectares of 'Dedicated Forestry Land' associated with the Woodville Woodlands development.

8. Clauses 2-7 of Part Three of the Schedule to the 2004 S.106 Agreement provide further details about the covenants the owner of the land entered into with NWLDC in respect of the 'Dedicated Forestry Land'. Clause 5 requires that upon the completion of the Approved Forestry Scheme, the 'Dedicated Forestry Land' *must be maintained in perpetuity as a forestry area for use by the general public* to the reasonable satisfaction of NWLDC. Clause 7 goes on to establish that the 'Dedicated Forestry Land' must not be used *for any purpose other than woodland/shrubland*.
9. The Woodville Woodlands Phase 4 Strategic Composite Planting Plan,³ which formed part of the reserved matters application for the outline planning consent 02/01416/OUT is understood to be the Approved Forestry Scheme referred to in the 2004 S.106 Agreement. This plan indicates that 4,275 sq. m of mixed woodland planting was originally planned for the appeal site. From the evidence that is before me the appeal site is believed to incorporate 4,275 sq. m of the 9.85 hectares of 'Dedicated Forestry Land' that is identified in the 2004 S.106 Agreement.
10. With this background information in mind I now turn to deal with Appeal A.

Appeal A

Appeal proposal

11. The appeal proposal seeks outline planning permission for a self and custom-build residential development consisting of 30 plots with a new access and supporting infrastructure. All matters except access and layout were reserved for subsequent approval. It is proposed that the serviced plots would range in size from 290 sq. m to 597sq. m. The position and size of each plot would be fixed. However, the siting of the dwellings on each plot would be subject to separate reserved matters applications.
12. A new vehicular and pedestrian access would be provided to the site from Hepworth Road. In addition, several new pedestrian and cycle links would be created between the appeal site and the adjoining housing developments. One of these would connect the site to South Street to the north and the other would link to Dovedale Park residential development to the north west. There would be sufficient space on every plot to provide a minimum of two off-street parking spaces per dwelling. The Design Code, submitted with the application, also sets out that every dwelling must provide at least two secure and covered cycle parking spaces. Informal open space, a landscape buffer, boulevard planting strips together with hedge and tree planting would also be provided.
13. The subsequent reserved matters applications would be required to adhere to the Design Code for the scheme. The Design Code sets out the broad parameters and design principles that would guide the development in relation to layout; scale; design and appearance; landscaping; sustainability and drainage; parking; external storage; amenity space and ecology. A number of plans, drawings and documents were submitted in support of the proposal. These are listed at paragraph 4.11 of the Appellant's proof and

³ Drawing No: Plan/624/Strat/Ph4/PP(C)1c

where these were revised and superseded during the planning process they have been clearly marked as superseded.

Planning Policy

14. The statutory development plan for the area includes the North West Leicestershire Local Plan (LP) (2017). Both parties refer to a number of policies in the LP as being relevant to the determination of the appeal. These include: S1 - Future Housing and Economic Development Needs; S2 - Settlement Hierarchy; S3 - Countryside; D1 - Design of New Development; D2 - Amenity; H4 - Affordable Housing; If1- Development and Infrastructure; IF4 - Transport Infrastructure and New Development; IF7 - Parking Provision and New Development; En1 - Nature Conservation; En3 - The National Forest; Cc2 - Water - Flood Risk; Cc3 - Water - Sustainable Drainage Systems.
15. Other relevant policies and guidance which are material in this case include: the National Planning Policy Framework (NPPF); the National Planning Practice Guidance (NPPG); the Written Ministerial Statement (WMS), 28 November 2014; the Housing White Paper, February 2017; the North West Leicestershire District Council - Good Design Guide SPD; and the Leicestershire Highway Design Guidance.
16. I am also aware of the Self-build and Custom Housebuilding Act 2015 (as amended) and the associated Self-build and Custom Housebuilding Regulations 2016. Amongst other matters the purpose of the Act is to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land with the relevant authority. Specifically, the Act makes provision for Local Authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order that they may build houses for them to occupy as homes; and for Local Authorities to have regard to the demand for custom build housing as evidenced by the registers when exercising certain functions including those relating to planning and housing.

Main Issue

17. The main issue in this case is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

18. There is no dispute that the appeal site is located outside the defined Limits to Development as outlined on the Policies Map in the adopted LP. Land outside the Limits to Development is identified as countryside where development will be considered in the context of Policy S3. Only certain specified uses, listed (a) to (s) in the policy, will be supported. New residential development is not identified as a form of development permitted in the countryside under Policy S3 of the LP and therefore the appeal proposal is plainly in conflict with the development plan.
19. For the Council it is argued that the appeal proposal would introduce residential development and extend the existing edge of the settlement of Woodville. It is stated that the proposal would result in unnecessary development of greenfield land and encroach into an area of countryside which would be in conflict with Policy S3 in the LP. It is further contended that such proposed development would be harmful in terms of protection of the

countryside and would result in the development of open undeveloped land that forms an important separation between Woodville and Blackfordby. It is claimed that the proposal would be contrary to paragraph 170 of the NPPF 2019 as well as Policy S3 of the LP.

20. At my visit I saw that the proposed development would involve development of greenfield land on the fringe of the settlement of Woodville. However, the appeal site lies adjacent to the existing built form of Woodville and is bounded by Hepworth Road to the south and east and is well contained within its setting. In my view, it does not form an important area of separation between Woodville and Blackfordby. Development of the appeal site would not extend beyond the southern confines of the existing built form of Woodville and would be considerably set in from the eastern boundary of Woodville's developed footprint along Hepworth Road.
21. I also saw several existing clusters of development situated in the area of countryside between the south east boundary of Woodville and the north western boundary of Blackfordby. I note that these clusters are situated in a considerably more isolated location in relation to these settlements compared to the appeal site. Consequently, they have a greater impact on the perceived and physical separation between Woodville and Blackfordby than the appeal site. These clusters include development at Thorn Street, Butt Lane and the well-established manufacturing facility, Wavin UK (Forest Works), at Butt Lane. The siting of these clusters of development highlights that the countryside in between Woodville and Blackfordby is not undeveloped. In my view, development of the appeal site would not undermine the physical and perceived separation between Woodville and Blackfordby.
22. The Council confirms that as at April 2019, there are 54 individuals on the Council's Self-Build and Custom Housebuilding Register and that as of April 2019, it has permitted 4 plots in the period since 31 October 2016. Since 31 October 2016 the Council has permitted an additional 133 single plot dwellings which have been distributed across the District.⁴ However, the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended).
23. To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S.106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council's Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District.

⁴ See details in Appendix 3 to the Council's Statement

24. Moreover, the Council refers to the Buildstore.co.uk website which was, at March 2019, advertising 9 self-build plots sites as being available within the District and that all of these have been granted planning permission since 31 October 2016.⁵ However, one of these (17/01860/FUL) is also listed in Figure 4 of the Council's Statement of Case as an approved self-build site. From the evidence that is before me none of the 8 remaining sites is subject to a planning condition or a planning obligation requiring a self-build or custom-build house to be built on the site that accords with the statutory definition.
25. In summary, it is only the 4 plots listed in Figure 4 of the Council's Statement of Case that appear to comply with the definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended). It follows that the Council has not yet granted planning permission for enough serviced plots to meet the demand arising for base period 1 let alone any of the subsequent base periods (2, 3 and 4).⁶ Although the Council maintains it is already making progress towards granting planning permission for enough serviced plots to meet the demand arising in base period 1, the Council has provided no information to suggest that there are any applications pending determination for serviced plots in the District at present.
26. The deadline for granting planning permission for enough serviced plots to meet the demand arising for base period 1 is 30 October 2019. As such there remains a residual requirement to grant consent for at least 5 serviced plots by 30 October 2019. Consequently, the ability of the appeal proposal to address the unmet demand for serviced plots that arose in base period 1, base period 2 and part of base period 3⁷, in a comprehensively planned manner, is a material consideration that weighs strongly in favour of the appeal proposal. The appeal proposal would meet the majority of the current demand by delivering 30 serviced self-build or custom-build plots and this would accord with advice in paragraphs 59 and 61 of the NPPF and other Government guidance.
27. I accept that the NPPG on Self-Build and Custom Housebuilding states that relevant authorities *could* include policies in their local plans for self and custom housebuilding, but this is not a requirement.⁸ It also states that relevant authorities could seek to meet demand by engaging with landowners who own sites that are suitable for housing. The only requirement is that the Council has a duty to grant planning permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.⁹ The Council is considering how best to address the issue of self-build and custom housebuilding in the Local Plan Review.
28. Nevertheless, the Council is required by the provisions in Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period. I consider the appeal proposal is necessary to enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), given that there

⁵ See details in Appendix 4 to the Council's Statement

⁶ Base Period 4 runs from 31/10/2018-30/10/2019 and is therefore ongoing.

⁷ Based on the information provided by NWLDP in paragraph 6.5 of its Statement of Case

⁸ NPPG Paragraph: 025 Reference ID: 57-025-201760728

⁹ NPPG Paragraph: 023 Reference ID: 57-023-201760728

appears to be an inadequate supply of serviced plots coming forward for development in the District.

29. The Council refers to the need for the planning system to protect and enhance valued landscapes. However, the Council has provided no evidence to demonstrate there are physical attributes associated with the appeal site and its immediate setting that elevate it above ordinary countryside. From the evidence that is before me and from my site visit, the appeal site and its immediate setting do not represent a valued landscape in the context of paragraph 170 of the NPPF.
30. The Council and others have raised concerns that the appeal site forms part of National Forest planting and landscaping which was secured by the adjacent Woodville Woodlands development. From the evidence before me it appears that the appeal site is identified on the approved plans as a combination of forest planting and grassland. Aerial photography suggests that the appeal site was a greenfield element of the Woodville Woodlands scheme and consists of grassland and scrub. It appears as though these habitats have been left to develop and for woodland planting to naturally regenerate rather than being re-planted as plantation woodland which was the approach adopted on brownfield areas of the wider site. Overgrown brambles and hawthorns were cleared from the appeal site in 2015 but no protected trees have been removed.
31. The National Forest Company (NFC) has raised no objection to the proposal provided that an equal amount of landscaping is provided elsewhere. The NFC has requested a contribution of £38,000 which would be secured by the S.106 Agreement. The Council has agreed to and signed the S.106 Agreement which sets out details relating to the NFC contribution and has confirmed that it considers the £38,000 NFC contribution to adequately mitigate the impacts of the appeal proposal in respect of tree planting. I agree that the £38,000 NFC contribution would provide adequate mitigation for the proposed scheme.
32. On the main issue I conclude that the proposal would not adversely impact upon the character and appearance of the surrounding area.

Planning Obligation

33. The S.106 Agreement and Deed of Variation provide a legal mechanism to secure developer contributions towards local schools. LCC originally requested an education contribution of £195, 806.86 and this figure was referred to in the signed S.106 Agreement. However, in an email dated 13 May 2019, the LCC sought a revised education contribution which amounts to £184,956.51. The revised contribution is made up of a primary school contribution of £131,328.00 and a high school contribution of £53, 628.51. The primary school contribution is for the provision of pupil places at St Margaret's C of E Primary School or such other primary school as will provide additional facilities to accommodate pupil growth from the development. The high school contribution is for the provision of pupil places at Ivanhoe High School or such other high school as will provide additional facilities to accommodate pupil growth from the development.
34. Given that the S.106 Agreement had already been agreed and signed, the Appellant had to arrange for a Deed of Variation to be prepared and signed to ensure that the S.106 Agreement correlates with the amounts requested by

LCC in respect of the primary sector and high school sector contributions. The Deed of Variation has the effect of varying the submitted S.106 Agreement so the total value of the education contribution and its apportionment between primary and high school sectors accords with the LCC's revised request. Additionally, given that the education contribution would be paid in instalments, as per Schedule 3 of the S.106 Agreement, the Deed of Variation amends the value of each instalment to correctly reflect the revised value of the education contribution. I consider there are adequate provisions in place to mitigate the impact of the development on local schools.

35. The NFC has requested that a £38,000 contribution towards off-site National Forest tree planting and the S.106 Agreement sets out where the compensatory tree planting would take place. It is the current intention that such funds would be used for tree planting at Ashby Woulds which the NFC has recently acquired and which is around 1.39kms to the south of the appeal site. The S.106 Agreement includes some flexibility for the provision of tree planting and development works at an alternative site in the vicinity of the development to be agreed between the NWLDC and the owner. I consider that the proposal would comply with Policy En3 of the LP and the impact on trees and the National Forest would be acceptable.
36. The appeal proposal does not include provision for affordable housing. A viability report was submitted with the proposal and this indicates that the scheme would not be viable with the inclusion of affordable housing (either on-site or off-site). The District Valuer is satisfied that the scheme is not viable with the inclusion of affordable housing. There is no reason for me to disagree with that analysis.
37. From the evidence that is before me all of the obligations in the S106 Agreement, as varied by the Deed of Variation, are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. They all meet the tests in CIL Regulations 122 and 123 and the guidance in paragraph 54 and 56 of the NPPF 2019. I have taken them into account in these decisions.

Other Matters

38. I have taken into account all other matters raised including the representations from interested persons and parties. Local residents have expressed concerns about the design of the new houses. The appeal proposal seeks approval of the layout of plots, the internal access roads and the point of access from Hepworth Road. The precise location of the dwelling within each plot, its appearance, scale and landscaping would be subject to separate reserved matters applications. A Design Code has been submitted as part of the proposal to guide future reserved matters applications and covers landscaping, sustainable technologies, drainage, scale, design and layout.
39. I note that the layout shows that a main route would run through the site that would be planted, that there would be significant planting to the boundaries of the site, public open space and spacious plots at a density of 15.7 dwellings per hectare. I consider that it has been demonstrated, in principle, that an appropriate scheme for 30 dwellings could be satisfactorily developed on the site and would comply with Policy D1 of the LP, the NWLDC Good Design Guide SPD and the advice in the NPPF.

40. With regard to traffic and highway safety the proposed development would provide a new vehicular access point from Hepworth Road. The access would be located about 170 m to the west of Hepworth Road/Forest Road roundabout and would take the form of a priority junction with a right turn ghost lane and appropriate visibility splays in each direction. The proposal is accompanied by a Transport Statement which concludes that the development would not materially increase traffic flows on the surrounding highway network. The County Highway Authority raises no highway safety objections to the proposed scheme. I consider the proposal would comply with Policy IF4 of the LP, the advice in the NPPF and the Leicestershire Highway Design Guidance.
41. With regard to ecological impacts I note that the proposal was supported by an initial ecological assessment. Following comments by the County Ecologist a Greater Crested Newt Mitigation Strategy and a further Botanical Survey were submitted to the Council. The County Ecologist has reviewed the updated information and was satisfied with the mitigation strategy put forward in respect of Greater Crested Newts and recommends that a planning condition be attached to any planning permission. The County ecologist considers that the loss of species rich grassland can be offset by the creation of a new wet grassland of around 0.25 ha. There is sufficient space along the site frontage and within the south eastern corner of the site for this to be created but it is recommended that the precise species and management be subject to planning conditions. There is no reason for me to disagree with that analysis.
42. A Flood Risk Assessment and Surface Water Drainage Strategy has been submitted in support of the proposal. This confirms that the site is located within Flood Zone 1 and thus has a low probability of fluvial or tidal flooding. However, it is noted that there is a small area located centrally within the site which has resulted in a high level of risk of surface water flooding. It is proposed to manage surface water run-off from the development through the implementation of a sustainable drainage system, limiting the proposed maximum discharge rate to the site specific greenfield rate, providing on-site attenuation in the form of ponds or open water features with controlled discharge rates. The precise location and design of the open water features would be subject to a planning condition. Foul drainage would be connected to the existing mains sewer.
43. Some local residents are concerned about the impact of the proposal on the living conditions of existing residential occupiers. I consider that the impacts on neighbouring occupiers arising from the proposed development would need to be assessed in more detail at the reserved matters stage(s) when more precise details as to the layout, scale and appearance of the dwellings are submitted for consideration. Notwithstanding the details shown on the submitted layout there would appear to be no reason in principle why 30 units could not be provided on the site in a manner which would not significantly adversely impact upon neighbours' amenities.
44. I have considered and taken into account the planning appeal decisions referred to by the Council. I consider that the circumstances of those appeals are materially different to the appeal proposal. The appeal proposal should be considered on its own merits in the context of the development plan and other material considerations.

Planning Balance

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material planning considerations indicate otherwise. The Reason for Refusal cites only Policy S3 which is said to be breached but it also indicates that the proposal would not constitute sustainable development. The site is outside the defined limits to development and is not a form of development permitted by Policy S3. I find that being outside the settlement boundary and within the countryside, the appeal proposal is not in accordance with the development plan taken as a whole.
46. However, balanced against the identified conflict with the development plan, I consider there are a number of factors that need to be considered. Paragraph 8 of the NPPF 2019 states "*Achieving sustainable development means that the planning system has three overarching objectives*", which are identified as economic, social and environmental. In my view the appeal proposal would make a positive contribution towards achieving all three of these.
47. I attach substantial weight in terms of the economic benefits that would arise from the provision of 30 dwellings in Woodville. The new residents that would live in these homes are likely to use and support local services, local facilities and local businesses. Therefore, the proposal is likely to make a positive contribution to the local economy. The development of each property should create opportunities for local builders, tradesmen and builder's merchants. This has the potential to create local employment and training opportunities.
48. In terms of the social benefits, the proposal would be able to meet most of the current demand for self and custom-build plots in the District. The appeal proposal does not represent unnecessary development because it would greatly assist NWLDC to meet its statutory obligations with respect to providing serviced plots for self-build and custom-build housing. This would ensure that the proposed development plays a major role in meeting an evidenced housing need in North West Leicestershire. Moreover, the mix of housing types that come forward on the site would respond to the needs of local residents in accordance with Policy H6 of the LP and paragraph 59 of the NPPF. The overall layout of the site has been designed to ensure that a high standard of amenity can be provided for existing and future residents in line with Policy D2 and paragraph 127f of the NPPF. This comprises a substantial social benefit.
49. The proposal would not impact upon any physical separation between Woodville and Blackfordby or the character and appearance of the surrounding area. The site is well located in relation to the local transport infrastructure and would have good pedestrian and cycle links to local services, facilities and open space. The Design Code establishes that each dwelling must incorporate ecological enhancements, which include a minimum of one bat or one bird box. Furthermore, landscaping on each plot would help to promote biodiversity enhancements across the site. With regard to the performance and energy efficiency of the homes, the Design Code establishes that each dwelling must exceed the energy and carbon requirements in Part L of the Building Regulations. All of these factors would provide environmental benefits. I apportion moderate weight in terms of the environment. Taking all of these matters into account, I consider that the proposal would represent sustainable development as defined by the NPPF 2019.

50. In summary, the appeal proposal provides an opportunity to comprehensively meet the majority of the current demand for self and custom-build plots in the District on a sustainably located site. On balance I consider that the economic, social and environmental benefits of the proposal significantly and demonstrably outweigh the conflict with the development plan. It is therefore concluded that there are material considerations in this case to justify a departure from the development plan in accordance with the statutory provisions outlined under Section 38(6) of the Planning and Compulsory Purchase Act 2004.
51. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. Appeal A is allowed subject to the conditions set out in the attached Schedule.

Appeal B

Background

52. I have already set out the background and planning history of the site at paragraphs 3-9 above and there is no need for me to repeat that here. The Section 106B Appeal seeks to discharge the appeal site from the obligations in Part Three of the Schedule to the 2004 S.106 Agreement. The proposed discharge would result in the 1.9 hectares appeal site being excluded from the definition of 'Dedicated Forestry Land' in the 2004 S.106 Agreement. As a result, it would allow the self or custom-build scheme (Appeal A) to come forward on the site. The S.106 Agreement and Deed of Variation submitted with the appeal proposals provide the legal mechanism to achieve this. Amongst other matters this S.106 Agreement includes a clause to secure the £38,000 financial contribution towards off-site National Forest planting in accordance with the request from the NFC.

Main Issue

53. The main issue in this appeal is whether the planning obligation continues to serve a useful planning purpose.

Reasons

54. Section 106A (6) of the Town and Country Planning Act 1990 (as amended) provides that on an application for modification, the determination may be that the obligation shall continue to have effect without modification; if the obligation no longer serves a useful purpose, that it should be discharged; or if the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect subject to the modifications requested.
55. The judgment in *Batchelor Enterprises Limited v North Dorset District Council* [2003] EWHC 3006 (Admin)¹⁰ provides clarity on how to assess whether a planning obligation still serves a useful purpose, in paragraph 26 of the judgment, Mr Justice Sullivan established that

"paragraph (b) in sub-section 106A (6) should be read as providing that a local planning authority may determine "if the obligation no longer serves a useful (planning) purpose that it shall be discharged.""

¹⁰ Appendix 12 of the Appellant's Statement of Case

56. The Council's reason for refusal is premised on the fact that the application 16/01191/OUTM was refused partly due to its perceived impact upon the separation and undeveloped character between Woodville and Blackfordby. I have already comprehensively addressed this matter under Appeal A and concluded that the appeal site is well contained within its setting and does not form part of an important area of separation between Woodville and Blackfordby. It follows therefore that the 4,275 sq. m of Dedicated Forestry Land on the site does not serve a useful planning purpose by protecting an important separation between the two settlements.
57. Furthermore, as noted in paragraph 31 above, the NFC has confirmed that it does not object to the proposal, subject to the self or custom-build scheme (Appeal A) making a £38,000 contribution towards compensatory off-site tree planting. This financial contribution would be secured by the S.106 Agreement submitted alongside both appeals.
58. I note that the primary reason for designating 4,275 sq. m of the appeal site as Dedicated Forestry Land in 2004 was to enable a National Forest tree planting scheme to take place on the site. However, the NFC has confirmed that the appeal site was not re-planted as plantation woodland as part of the National Forest Planting that took place for the Woodville Woodlands development.¹¹
59. In addition, clause 5 of Part Three of the Schedule to the 2004 S.106 Agreement stipulated that upon completion of the Approved Forestry Scheme the Dedicated Forestry Land should be maintained ... *"in perpetuity as a forestry area for use by the general public."* In 2010 the NWLDC stated that the Approved Forestry Scheme was complete.¹² Therefore, had the appeal site formed part of the Approved Forestry Scheme, the appeal site should now be accessible to the public. However, the appeal site has not been made publicly accessible. This provides further evidence to suggest that no forestry planting took place on the site and therefore designating part of it as Dedicated Forestry Land does not serve a useful planning purpose.
60. Moreover, from the evidence that is before me, it appears that neither NWLDC nor SDDC has adopted the appeal site as a forestry area. Had the appeal site formed part of the Approved Forestry Scheme, one of these Councils would have been obliged to adopt it under clause 3.2 of Part Two of the Schedule to the 2004 S.106 Agreement. Therefore, the fact that the appeal site has not been adopted by one of the District Councils provides further confirmation that the National Forest tree planting scheme did not take place on the site and was not implemented in the manner originally intended. This signals that there has been a material change in circumstances for the obligations in Part Three of the Schedule to the 2004 S.106 Agreement since it was originally signed. Ultimately, this means that designating part of the appeal site for Dedicated Forestry Land no longer serves a useful planning purpose because it protects the site for a tree planting scheme that did not materialise.
61. I consider that designating part of the site as Dedicated Forestry Land does not make a positive contribution towards the three overarching objectives of the planning system set out in paragraph 8 of the NPPF 2019. If the appeal site was not discharged from the obligations in Part Three of the Schedule to the 2004

¹¹ Appendix 7 of the Appellant's Statement of Case

¹² Appendices 13 and 14 of the Appellant's Statement of Case

S.106 Agreement this would prevent it from being used for any purpose other than as woodland/scrubland and the proposed self or custom-build plots would not come forward. There is clear evidence from the Council's self-build and custom housebuilding register which confirms that there is a need for the type of residential development that is being proposed for the appeal site. The Dedicated Forestry Land on the appeal site would be contrary to the economic, social and environmental objectives of the planning system. Accordingly, it does not fulfil a useful planning purpose.

62. On the other hand, discharging the appeal site from the planning obligations in Part Three of the Schedule to the 2004 S.106 Agreement would enable the proposed self or custom-build development, subject to Appeal A, to come forward. This scheme would deliver a number of social, economic and environmental objectives and thus would make a positive contribution towards achieving all three of the planning system's overarching objectives. As a result, the proposed discharge would represent a significant improvement on the current circumstances.
63. In conclusion, for all of the above reasons, I consider that the 4,275 sq.m of Dedicated Forestry Land on the appeal site no longer serves a useful planning purpose. None of the other matters raised alter the balance of my conclusions. Therefore, the proposed discharge conforms with the test in Section 106A (6) of the Town and Country Planning Act 1990 (as amended). As such Appeal B is allowed and the appeal site is discharged from the obligations in Part Three of the Schedule to the 2004 S.106 Agreement.

Harold Stephens

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS (1-16) (APPEAL A)

- 1) Application for approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 3) The development shall be carried out in accordance with the following approved plans:
 - Drg No. P0877.20160420.SK001 Rev B - Site access arrangement;
 - Drg No 10 3008-10-Rev E - Site Block Plan; and
 - Drg No 11 Rev A - Site location plan.
- 4) No more than 30 dwellings shall be constructed on the site.
- 5) No development or submission of any reserved matters shall be undertaken until a Risk Based Land Contamination Assessment for the entire site has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
 - BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs); and
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and a Verification Plan is prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
- BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by The Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

6) Prior to occupation of any part of the completed development, either

(i) If no remediation was required by Condition 5 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development is received and approved in writing by the Local Planning Authority, or

(ii) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

7) No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;

h) delivery, demolition and construction working hours.

The approved construction method statement shall be adhered to throughout the construction period for the development.

- 8) No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 x 65 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 9) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Drg No. P0877.20160420.SK001 Rev B have been implemented in full.
- 10) Notwithstanding the submitted plans, no development shall commence until details of parking and turning have been submitted to and approved in writing by the Local Planning Authority. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 11) No development shall take place until a scheme for foul drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- 12) No development approved by this planning permission shall take place until such time as infiltration testing has been carried out to confirm or discount the suitability of the site for the use of infiltration as a drainage element, and the Flood Risk Assessment (FRA) has been updated accordingly to reflect this in the drainage strategy.

The results should conform to BRE Digest 365, details should also be submitted demonstrating that sufficient surface water storage can be provided on-site. Alternatively, the Lead Local Flood Authority would accept the proposal of an alternative drainage strategy that could be used should infiltration prove not to be feasible during the detailed design stage.

- 13) No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year + climate change. Where discharging to a sewer, this should be modelled as surcharged for all events above the 1 in 30 year, to account for the design standards of the public sewers.

- 14) No reserved matters applications shall be submitted until such time as a Design Code for the entirety of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement (including addendum) and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council or any successor organisation). The development shall thereafter be carried out in accordance with the agreed details.
- 15) No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
 - The programme for post-investigation assessment
 - Provision to be made for analysis of the site investigation and recording
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - Provision to be made for archive deposition of the analysis and records of the site investigation
 - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 16) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (15) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Appendix B

Appeal – APP/W0530/W/19/3230103

Gamlingay, Cambridgeshire



Appeal Decision

Site visit made on 13 August 2019

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/W0530/W/19/3230103

Green End / Heath Road, Gamlingay SG19 3JZ

- 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 Mr David Barford, Wyboston Lakes Limited against the decision of South Cambridgeshire District Council.
 - The application Ref S/3170/17/OL, dated 4 September 2017, was refused by notice dated 7 February 2019.
 - The development proposed is self-build/custom build development for up to 9 dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for self-build/custom build development for up to 9 dwellings at Green End/Heath Road, Gamlingay SG19 3JZ in accordance with the terms of the application, Ref S/3170/17/OL, dated 4 September 2017, subject to the conditions listed in the attached schedule.

Application for Costs

2. An application for costs has been made by Mr David Barford, Wyboston Lakes Limited against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application is made in outline form with all matters reserved. I have had regard to the submitted illustrative drawings submitted with the application as these are a useful guide as to how the site might be developed.
4. Gamlingay Parish Council (the Parish Council) has notified the appeal that there is a Regulation 14 Pre-Submission Draft Neighbourhood Plan in consultation. It has been confirmed by the LPA that there is no Neighbourhood Plan at present. Since it is unknown whether it will be made (adopted) in its current form and it could be subject to change, I give very limited weight to its content.
5. The Parish Council also draws attention to a Village Design Guide that was submitted for consultation with the LPA in May 2019. The LPA have not yet adopted this as a Supplementary Planning Document, informing this appeal that it is in draft only.
6. The appellant submitted a signed unilateral undertaking with the appeal. The Council raised concern about the wording within the agreement with regard to

disposal of dwellings within the development. The appellant disputed the need for changing the wording but nonetheless provide an alternative signed unilateral undertaking with some amendment. Due to the sequencing of submissions, I consider the revised unilateral undertaking supersedes the earlier version and I shall base my decision accordingly.

Main Issues

7. The main issues are:

- whether there are material considerations to warrant a departure from the Development Plan
- the effect of the development upon landscape character.

Reasons

Whether there are material considerations to warrant a departure from the Development Plan

8. It is common ground between the parties that the Council can demonstrate a deliverable five-year housing land supply and thus it is recognised that the proposals are a departure from the Development Plan (DP). The appeal scheme conflicts with the Council's adopted strategy for the location of new housing in conflict with DP Policies S/7 and S/9. I find no reason to disagree.
9. The LPA is a Right to Build Vanguard Authority with a statutory duty under Section 2A of The Self Build and Custom Housebuilding Act 2015 (as amended), (the Act), to "give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area."
10. The appellant has put forward evidence relating to a shortfall in the delivery of self-build housing, which is uncontested by the LPA. This shortfall is significant. The Parish Council confirm there is demand within the village for this type of development. I therefore give significant weight to this factor.
11. The DP policies, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Despite the LPA ability to demonstrate a five-year housing land supply, this must be recognised as a minimum figure in light of the National Planning Policy Framework (the Framework), which encourages significantly boosting the supply of new homes.
12. The proposal would make a modest contribution of up to 9 self-build dwellings towards the shortfall. Whilst the appeal site would be on the edge of the village, it is within walking distance to the village centre and public transportation operates nearby. Shops, services and employment are therefore accessible. Therefore, there are economic, social and environmental sustainability benefits attributable to the development.
13. The appellant has submitted a unilateral undertaking, which would limit the appeal development to self-build housing. On this basis and for the reasons outline above, in this instance there are considerations that weigh heavily in favour of the development, that would justify departing from the development plan in this regard.

Landscape Character

14. There is a tall, dense line of vegetation running the length of the appeal site's western boundary. This presents a green corridor fronting onto Heath Road on the approach into Gamlingay. Whilst the proposals would introduce a vehicular access into this hedge line, the development itself would sit behind this established landscaped corridor.
15. I observed from the site visit that some dwellings in Dennis Green on Heath Road are highly visible from the edge of Gamlingay by reason of their elevated position in the landscape. However, other parts of the hamlet are not visible due to the hedges and trees that line the highways. The appeal development would not feature in views up to Dennis Green, sitting close to the bottom of an undulation. The ability to enhance landscaping through planning conditions would further absorb the proposed development into the site.
16. The development of the site for up to 9 dwellings would represent a relatively low density. This is in contrast to the fairly dense and well-built up character of the immediate neighbouring area, that presents a reasonably abrupt urban edge facing onto the countryside. The lower density proposed development would act as a more sympathetic the transition between urban and rural areas. Therefore, the proposal would not have a significant visual effect on the open countryside.
17. In the wider context, the appeal site sits in between the edge of Gamlingay and the hamlet of Dennis Green. The separation between them is recognised by the Parish Council in its Village Design Guide as serving an important spatial function, keeping the settlements from merging. It is desirable to maintain this separation to preserve the historic character of the hamlets and to respect their identity.
18. The development of the appeal site would maintain a reasonably substantial area of open land in between the two settlements. There is reference in the evidence to that land potentially becoming an area of formal open space, although this is not part of the formal proposals and nor does the unilateral undertaking submitted seek to secure its use as such. This is a sizeable area of land that would continue to serve the purpose of keeping Gamlingay and the nearby hamlets physically separate. Whilst the proposals would bring the built form of the hamlets closer, for the reasons outline above, the development would not encroach upon the character or landscaped setting of the hamlets to a significant degree.
19. Therefore, whilst the development would inevitably change the local landscape, with careful consideration of the matters reserved for future consideration, this would not be visually or spatially harmful to the appearance of the area nor harmful to the wider landscape character. Consequently, in that regard, the proposal would not conflict with Policies S/7, HQ/1(a) or NH/2 of the DP. Amongst other things, these Policies require proposals to respect and respond to local landscape context.

Other Matters

20. The Parish Council point to a number of plots that have been developed in the village, with residents citing a residential scheme on the Green End Industrial Estate. I do not have full details of the circumstances or planning merits in any

of these cases. In any event, this appeal has been determined on its own merits and with regard to the Act.

21. The appeal site's history shows that it was a landfill site. The appellant's submitted report indicates that this need not block the proposed development subject to appropriate control.
22. Residents have raised concerns over flood risk and ecology. I acknowledge that any development has potential for impacting on drainage and habitat. However, I am satisfied that conditional approval of an appropriate drainage system as well as the statutory obligations regarding protected species would be sufficient to mitigate any potential conflicts arising from the proposal. Any impact arising would not have a significant effect.
23. The point of access into the appeal site is a matter reserved for future consideration. Concerns of residents relate to the speed of traffic entering the village and the nature of a proposed access, potentially causing a hazard to highway users. However, the Highway Authority has confirmed no objection to the proposal on highway safety grounds and, it would be reasonable to assume, would exercise judgement on the reserved matters to ensure no hazard is caused to highway users.
24. The nature of self-build housing is set out within the Act. Whilst this gives design freedoms for each self-build plot, any designs would need to be submitted to the LPA through a reserved matters application. The quality of the design, its character and appearance, and its relationship to neighbouring occupiers would be assessed at that stage.
25. I have considered the arguments that the grant of planning permission would set a precedent for other similar developments. However, each application and appeal must be determined on its own individual merits, and a generalised concern of this nature does not justify the withholding of permission.
26. I note that No 1 is a Grade II listed building and that the Council has not found harm to this heritage asset in its assessment. This heritage asset is a sufficient distance away from the appeal site so as to be unaffected by the development.

Conditions

27. The standard conditions for the grant of outline planning permission are to be applied and amended to reflect that self-build dwellings would likely progress at different rates. Therefore a long timescale for submission of the reserved matters is necessary.
28. In order to meet national space standards a condition to control the proposed dwellings', gross floor space would be necessary.
29. A condition securing tree protection measures to preserve important biodiversity around the development site is necessary. Conditions regarding surface and foul water drainage are necessary to ensure the proposal does not increase the risk of flooding on-site or elsewhere.
30. Control of vehicle movements and construction hours is appropriate to ensure minimal disturbance to the living conditions of nearby occupiers. Given the history of the site for quarry and landfill purposes it would be necessary to

impose conditions relating to contamination investigation and remediation rather than a condition on archaeology.

31. The Highway Authority has requested a number of conditions. Full details of the access arrangements are to be submitted within the reserved matters secured under condition 1. The reserved matters will cover landscaping details so a separate condition on boundary treatments need not be applied.
32. The LPA has recommended conditions regarding energy efficiency and broadband connectivity. However, neither of these conditions are necessary to make the development acceptable in planning terms.

Conclusions

33. The appeal is allowed, subject to conditions and the unilateral undertaking.

David Wallis

INSPECTOR

Schedule of Conditions

- 1) Approval of the details of the layout of the development, the scale and appearance of buildings, the means of access and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the construction of the dwelling on that particular plot is commenced. The development of each plot 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 5 years from the date of this permission.
- 3) The development of each individual plot hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved for that plot.
- 4) The reserved matters shall set out schedules of gross internal floor space for each particular plot. The gross internal floor space across the whole of the development hereby permitted shall not exceed 999 square metres.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means a tree or hedgerow to be identified within any approved reserved matters plans and particulars.

- 6) No development shall take place until a surface water drainage scheme for the site based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall demonstrate that infiltration drainage is used where site specific BRE365/CIRIA 156 infiltration tests show it be appropriate and if infiltration is not appropriate the scheme should demonstrate that surface water run off up to and including the 1% Annual exceedance probability (AEP) rainfall event (including an appropriate allowance for climate change and urban creep) will not exceed the run off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before any dwelling hereby approved is occupied.
- 7) Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and completed in accordance with the approved scheme prior to the occupation of the development.
- 8) No construction works shall commence on site until a traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The principal areas of concern that should be addressed are:

- (i) Movements and control of construction vehicles (all loading and unloading shall be undertaken off the adopted highway)
- (ii) Contractor parking
- (iii) Control of mud and debris, in relationship to the functioning of the adopted public highway

Development shall commence in accordance with the approved details.

- 9) During the period of construction, no power operated machinery shall be operated on the site and there shall be no construction related deliveries taken at or dispatched from the site, before 0800 hours and after 1800 hours on weekdays and before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously in writing with the Local Planning Authority.
- 10) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - ground waters and surface waters
 - ecological systems.
- 11) No development shall take place where (following the risk assessment undertaken in condition 10) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before any part of the development is occupied.
- 12) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning

authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before any part of the development is resumed or continued.