The Planning Inspectorate

Appeal Decision

Hearing (Virtual) Held on 15 June 2021

Site Visits made on 11 May 2021 and 16 June 2021

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2021

Appeal Ref: APP/K2420/W/20/3265133
Land to the South of Cunnery Close, Barlestone, CV13 0HH

- 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 Gladman Developments Ltd against the decision of Hinckley and Bosworth Borough Council.
- The application Ref 20/00102/OUT, dated 30 January 2020, was refused by notice dated 17 June 2020.
- The development proposed is Outline planning application for up to 176 dwellings with public open space, landscaping and sustainable drainage systems (SuDS) and vehicular access point from Cunnery Close. All matters reserved except for access.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. This is an outline application with all matters reserved except access. A Development Framework Plan[1] (DFP) sets out an illustration of how the site might be laid out. One of the suggested conditions, agreed between the parties, requires that the development is to be implemented in general accordance with the DFP. It was confirmed at the hearing that if the appeal was allowed, the development would broadly conform to the parameters set by this layout. As such, I conclude that that key features of this plan, namely the concentration of residential development blocks in a rough square shape abutting Cunnery Close and with a buffer zone of amenity green space, including attenuation ponds on the southern and western boundaries and the narrow arm of the L-shaped site, would not alter significantly at reserved matters stage if the appeal was allowed.

3. The emerging Barlestone Neighbourhood Plan (NP) is in its early stages and carries very little weight.

4. Following the hearing I have considered it appropriate to include the effect of the development on the living conditions of occupiers of 2 Cunnery Close in my main issues. This is supported by representations from interested parties. As this issue has been addressed by the main parties in the Statement of Common Ground (SoCG) I am satisfied that to include it would not be prejudicial to the parties.

[1] Dwg. No. 8867-L-03 G

Main Issues

5. The main issues are:

- The effect of the development on the character and appearance of the area;
- The effect of the development on highway operations and safety; and,
- The effect of the development on the living conditions of residents of dwellings on the south side of Cunnery Close, with particular regard to noise and disturbance, outlook and overlooking.

Reasons

Character and appearance

6. Barlestone was originally a nucleated village that has expanded in post-war times on a broad east-west axis, along each side of Barton and Newbold Roads. It is located on a slight ridge within a large rural area with villages and hamlets scattered across a rolling landscape of irregular fields, small woodlands and lush treed hedgerows. It was confirmed at the hearing that it has around 1100 homes and it is roughly equidistant from Leicester, Hinckley and Ashby-de-la Zouch. The village is not on a main through route and I concluded that even at peak times it has a quiet semi-rural charm as well as direct visual, physical and perceptual links from the southern settlement edge to the adjacent countryside.

7. The post-war village expansion is tightly contained by farmland. This is particularly noticeable along the village's distinct and broadly consistent southern edge. Apart from a short ribbon development opposite the community centre, this runs more or less in a straight line from one side of the village to the other and is particularly apparent in views from the A447. From these viewpoints the village's built form is seen across a well-established and verdant rolling arable landscape, and more or less as a single line of small dwellings against a backdrop of mature vegetation on the skyline. It is fairly unobtrusive and the extent of built form is largely dwarfed by the scale of its rural setting.

8. The Council's Landscape Character Assessment (LCA)[2] states that the historic character of the Charnwood Fringe Settled Forest Hills area is evident in the pattern of piecemeal enclosure, and the small irregular fields surrounding settlements. This broadly reinforces my observations. The accompanying landscape strategy requires the conservation and enhancement of historic village cores and the integration of village extensions into the wooded landscape.

9. These characteristics are also set out in the Regional Landscape Character Assessment (EMRLCA)[3] for Village Farmlands, noting that the mixed agricultural regime, frequent small copses, woodland and hedgerow networks create a particularly strong and identifiable landscape character. It also notes that the narrow winding lanes and small nucleated villages are particularly significant in contributing to historic character, further enhanced, as for

[2] Hinckley and Bosworth Landscape Character Assessment, Charnwood Fringe Settled Forest Hills, September 2017
[3] East Midlands Regional Landscape Character Assessment, Village Farmlands, April 2010

Barlestone, in areas that are more remote from the effects of principal landscape infrastructures and urban fringe development.

10. The relevant townscape strategies (UCA)[4] include the enhancement of local identity and views to local landmarks and the open countryside, and regarding the landscape, that the siting and design of new development should complement the existing settlement pattern. New development is to be of appropriate massing and location to the rural context.

11. As such, the distinctive landscape immediately surrounding the village typifies many of the key features set out in the LCAs. The existing relationship between the underlying topography and the village's built form, which broadly follows the ridge, restricts the visibility of Barlestone when viewed from the south and south-west. The appeal site forms an integral part of the village's overall landscape setting when seen from the south and to a lesser extent from Bosworth Road to the immediate east.

12. The development blocks would occupy a space that would be broadly square shaped and would nearly double the width of the linear village at its western extent. On the basis of the number of dwellings set out in the description, it would add around 15 per cent to the number of Barlestone's existing dwellings. The site wraps around two sides of the tree lined village playing field, and would appear to project into open countryside.

13. I conclude that the quantum of development would be considerable in relation to the existing village, given both the increase in the number of households as well as the overall extent of the development. Moreover, as a consequence of the site's gentle south-facing slope the extent of the development would also be clearly visible in the wide views of Barlestone from the south and would also intrude into views of the countryside seen from the eastern site boundary on Bosworth Road. Moreover, the development's massing and extent would appear unrelated to the existing settlement building pattern or the underlying topography, and the existing visual, physical and perceptual links from the village's southern edge, including views identified in the UCA, would be lost along the length of the site boundary. This would be detrimental to the character and appearance of the area.

14. The development's overall scale and extent would result in a disproportionately large urban extension which would appear unrelated to its context, and which would be poorly integrated into the surrounding landscape. As such, the appellant's LVIA[5] understates the effect of the development with regard to the setting of the village on its southern edge, and I conclude that the effects on the landscape would be *moderate to major adverse* rather than the *negligible to minor adverse* stated.

15. The density of the development blocks would be similar to that of the existing village. However, although the DAS sets out *the types of design treatment anticipated and the general appearance of the proposed built form*, and states that *the development's design would be rooted in local character,* there is very little to indicate how this would be achieved. Nor does the DAS identify what the existing key characteristics of Barlestone's building pattern or typology might be. Although the historic core in particular presents as a rather irregular

[4] Urban Character Area, Barlestone
[5] FPCR August 2019

pattern of individual buildings, the wider village has distinct pockets of architectural consistency such as brick terraces and lines of rather unremarkable 20th century semi-detached dwellings. However, the three examples of proposed street scene types appear unrelated to anything I observed in the village. In fact it is difficult to see very much difference between the three street types illustrated, other than that the dwellings on the site's southern edge, labelled *Green Edge*, would face the buffer strip with additional tree planting.

16. Furthermore, although there are trees shown scattered through the building pattern, some of these would be very close to dwellings, as is shown on the illustrative street layouts. In my experience there is very little tolerance of mature trees directly in front of dwellings where they can drop debris on paths and gardens, and cause light loss. Moreover, there is a notable absence of mature vegetation within the building pattern of the village, which has a similar density. I conclude that this is because there is insufficient space. As such I give little weigh to the arguments regarding future mature tree cover within the development blocks.

17. Furthermore, the reference to 2.5 storey buildings to provide landmarks and corners in the street scene is also unsupported by evidence that this is characteristic of the area. Consequently, I conclude that the development would differ very little from generic housing schemes to be seen all over the country, where the style, mix and height of buildings appears random and contrived. When seen in longer views the underlying irregularity would also appear imposed on the landscape rather than reflecting or relating to the incremental and somewhat organic growth evident in the village.

18. In addition, one of the key design aims is to have outward facing dwellings along the southern boundary to improve the settlement edge. However, it is unclear to me why the existing settlement edge needs improving as the existing sharp transition from farmland to built form gives clear definition. Dwellings facing outward across the valley would blur the transition between the settlement and the countryside, particularly when the trees were not in leaf.

19. I appreciate that appearance, design and layout are reserved matters but the DAS sets out a clear design approach and consequently it seems reasonable to conclude that it carries some, if limited, weight.

20. It is not disputed between the parties that the development would be transformative and I appreciate that the requirement to find additional housing sites is likely to lead to expansion beyond what are considered to be the settlement boundaries and into open countryside. Nonetheless, there would be significant intrusion into the rural valley to Barlestone's south, which is directly related to the proposed extent and spread of the development blocks. Even if the development's street layout was altered, I am satisfied that there would be a considerable spread of development across the site. These concerns are reinforced by my observations in relation to the development's design philosophy which fails to provide any reassurance that the development would truly draw on Barlestone's underlying building pattern for inspiration or to ensure it integrated with the existing settlement.

21. The appellant argued that the size and extent of the development would not be apparent to people on the ground or within the estate. However, the depth of

development would be very apparent to existing residents and given its location on the valley side it would also be very apparent in views from the south and south-west. Moreover, there would be very limited connectivity to the existing street layout with just one vehicular access to the remaining village and very limited pedestrian links as discussed below.

22. The LVIA also understates the visual effects of the development on occupiers of dwellings lining Cunnery Close. I agree with the Council's consultant[6] that the replacement of open fields with a large residential development immediately adjacent to their rear garden boundaries would have a *major adverse* effect on these visual receptors, even in the long term, particularly given the modest size of the gardens. The appellant's LVIA states that tree planting in back gardens would mitigate these views. However, given the development's likely density it seems unlikely that the proposed gardens or public realm would be large enough to provide for opportunities for significant tree planting along this boundary. Although these views are highlighted on the site evaluation plan there is nothing before me to indicate that there would be a buffer zone between the Cunnery Close building line and the development. Even if trees were planted there is no guarantee that they would be retained in the longer term. The visual links to local features such as Hutt Spinney would also be blocked by the development.

23. It was argued at the hearing that the playing field is an urban land use which already projects beyond the settlement edge. However, although there is a play area, and a community centre with car park, these are located close to the playing field's northern border. The extensive playing field itself has the character and appearance of a semi-rural open space framed by mature trees and with well-trodden but unsurfaced paths around the boundary. It forms an appropriate transition between the settlement and the farmland beyond and does not read as an urban land use.

24. At a previous appeal[7] an Inspector allowed development in open countryside partly as a consequence of that site's visual containment. However, this site is not visually contained and the development would be intrusive.

25. In the light of the above, I conclude that the development would have a significant adverse effect on the character and appearance of the area and would therefore be contrary to Policies DM4 and DM10 c). There would also be conflict with Paragraph 170 of the National Planning Policy Framework (the Framework) which is concerned with the conservation and enhancement of the natural and local environment, and Paragraph 127 which requires development to be sympathetic to local character, including the surrounding built environment and landscape setting. There would also be conflict with Policies CS7 and 11 insofar as these are also restrictive policies. The proposals also fail to concur with guidance and strategies set out in the LCA and UCA.

Highway Safety

Compliance with design guidance

26. The highway authority's (LCC's) guidance[8] (LHDG) states that new residential streets will usually need at least two access points and be part of a well-

[6] Node, Landscape Statement, March 2021
[7] APP/K2420/W/19/3235401
[8] Leicestershire Highways Guide

connected street network. It goes on to say that cul de sacs may provide the best solution for developing awkward sites where the site is linear in nature, has difficult topography, boundary or other constraints and where through routes are not practical. With regard to cul de sacs LCC will not normally accept emergency accesses, but where the development proposal is otherwise acceptable but has one access point, emergency accesses will be considered. It also states that normally no more than 150 dwellings will be served from a single access and LCC's pre-application advice for the identical 2019 application reiterates that this is the starting point for the assessment of new development and advises the applicant to review the access arrangements relative to the site layout.

27. LCC's formal response to the 2019 application states that the site access would be designed in accordance with the (LHDG). However, this would clearly not be the case as taking Cunnery Close into account, the development's single access would serve some 213 dwellings, with no emergency access. LCC's response to the 2020 application refers back to the 2019 response, and also fails to given any explanation as to why the single access, without an emergency access would be acceptable.

28. It is the case that LHDG is guidance only, and that there may be local instances where the guidance has not been followed. However, I would expect deviation from the LCC's own guidance to be explained and justified. Moreover, LCC has failed to provide an explanation when requested to do so by local residents. Normally decisions such as this are a matter of public record. There is nothing before me to explain why LCC considers the development to be acceptable or what the mitigating or site-specific circumstances are that make this deviation from the guidance justifiable. Moreover, the LHDG is not a particularly old document. I am aware that the 6Cs, which preceded the LHDG, was in use until a few years ago.

29. The fact that other developments across the country have single access points for developments well in excess of 150 dwellings does not necessarily provide sufficient justification. Manual for Streets (MfS) states that local standards and design guidance are important tools for designing in accordance with the local context and that many highways authorities have developed their own standards and guidance. The lack of clarity in this regard leads me to conclude that I should find harm in the failure to conform to local design standards.

30. As such, and in the absence of explanation from the appellant, LCC or the Council, I conclude that the single access would be in breach of local highway guidance and it is unclear to me why this should be the case. Moreover, this issue has been raised by interested parties and by the Council's own consultant. I am unable to equate a lack of explanation with a lack of harm.

Traffic Modelling

31. There is a dispute between the parties as to the reliability and accuracy of the traffic modelling. At my visit, which was in the early morning peak hour, all the junctions surveyed were free flowing and had no queues. This in itself conflicts with the surveys and the model, and may be attributable to lockdown which has disrupted the predictability and actuality of traffic movement. Even if people are working from home to a greater degree than before COVID-19 it seems likely that some home-working will continue even when lockdown is eased.

32. I raised at the hearing that the base data used for the trip generation is based on TRICS[9] data for edge of town and suburban situations, even though the site could not be described as either an edge of town location or suburban situation. The Council's consultant did not raise a concern in this regard and it appears that similar base data has been used in applications for development in other rural locations. Nonetheless, in my experience TRICS's own guidance states that it is not best practice to use survey data from incompatible locations, and edge of town data is not compatible with free standing sites as there are likely to be significant differences with regard to the proximity or amenities and public transport links. This suggests that the proposed trip generation may be based on unrepresentative survey data.

33. The Council's consultant has also pointed out that at least two of the sets of survey data for affordable homes are based on one-bedroom dwellings. There is nothing before me to indicate that any one-bedroom dwellings would be built on the site. This reinforces my concerns that the base trip generation data may not be representative.

34. However, even if I concluded that the highways impact of the development cannot be accurately assessed from the appellant's evidence, and that the projected trip generation should be in excess of that indicated, there appeared to be significant excess capacity at the early morning peak hour at my visit. I recognise that this was a snapshot and may well, because of lockdown, be unrepresentative in itself. Nonetheless, even if there was congestion at peak times at the key junctions, although such instances might be inconvenient, it is a fairly usual occurrence for most commuters. There is nothing before me to indicate that increased congestion at the junctions arising from the development would lead to a severe impact on highway safety or operational capacity on the main road network. Although there have been several accidents in the study area since 2014 I agree with LCC that there does not appear to be any underlying pattern to those incidents.

Highways impacts on unclassified roads

35. The Council's decision referred to the highways impacts of the development on the unclassified roads leading to the site. At the time of my visit there were two cars parked in the stub which would form the new access point, as well as other cars parked on Cunnery Close between between Manor Road and the site access. The parking bays at the end of Cunnery Close were at capacity and there were other parked vehicles in the vicinity. Evidence to support issues concerning parking stress were presented at the hearing including the need for refuse vehicles to reverse along Cunnery Close due to excessive on-street parking.

36. It appears that there would be displacement of vehicles that park in and around the site access point and it is unclear where those cars would go. Although there is a line of garages near the townhouses that face the site access, it is unclear whether they are used. I also noticed that 1, 2, 3 and 5 Cunnery Close have drop kerbs that face the route to the access point.

37. There would undoubtedly be a considerable increase in the traffic using Cunnery Close and Manor Road, with the surveys indicating around a doubling of vehicle movements at the Cunnery Close/Manor Road junction at peak

[9] Trip Rate Information Computer System

hours. Even if I conclude that the likely increase in home-working might offset any underestimate of trip generation, this leads me to conclude that it is highly likely that there will be increased congestion and on-street parking stress, and a consequent increase in risks to pedestrians around the Cunnery Close and Manor Road junction, even if priority junctions are installed as shown. Even though the effects will be localised, they will be of concern to residents. It may be that some on-street parking fails to adhere to the Highway Code, but that does not alter the issues raised.

38. The modelling for the junctions of Cunnery Close and Manor Road, Manor Road and Curtis Way, and Curtis Way and Barton Road, indicate that the junctions are operating significantly below capacity. However, this does not alter my reasoning with regard to the parking stress and the congestion that this might cause. I appreciate that test drives were undertaken but these were undertaken in a Bank Holiday week, when in my experience employees often take the opportunity to extend the long weekend, and also when there were lockdown restrictions in place. Under such circumstances it is difficult to draw any firm conclusions from these test drives.

39. The appellant has suggested that the existing laybys on Manor Road could be formally laid out but given the parking I observed at my visit, this would reduce the available spaces. The appellant has also proposed imposing restrictions in the centre of the village but although these proposals might alleviate localised congestion, they would also displace parking to other areas or discourage local people from visiting such shops as there are. I am not satisfied that these proposals would mitigate the existing parking issues or the congestion currently experienced in the village.

Connectivity and access to services

40. The plans propose a link to a short section of path that currently provides access from the development's north-western corner to the access to townhouses on the south of Manor Road. However, although this would marginally decrease the walked distance from the development to Manor Road and the bus stop on Barton Road it would make a very marginal contribution to the provision of alternative transport routes. In any case it leads away from the village centre. There is also a proposal to provide a pedestrian link to the village playing field which would provide an attractive route in good weather, although it is unclear how useful this would be unless it was surfaced and lit.

41. Nonetheless, although there would be limited permeability and connectivity to the village as there would be one single vehicular access point, the development would be highly convenient for village facilities and journeys to local amenities could be undertaken on foot or bicycle.

42. However, it remains that the surveys for the NP have highlighted that the village has very limited facilities. It is also highlighted in the Core Strategy that of all the Key Rural Centres, Barlestone has a particular deficit of local employment. To get a face to face doctor's appointment, access employment, secondary schools and shops larger than the small Co-op, residents have to travel further afield. It was highlighted at the hearing that the bus service cannot be relied upon to get to jobs or schools in larger centres before 9 am, and this was not disputed by the appellant or the Council. I conclude that all residents would be heavily reliant on private cars to access most services and all vehicular trips would be via the single access point.

43. I appreciate that if the appeal was allowed the appellant would provide a travel pack to all residents, but although this would offer encouragement to resist use of private vehicles, it cannot guarantee reduced car usage. There would be limited meaningful opportunities for pedestrian or cycle movements to the area outside the development, and minimal access to high quality local transport networks, which are objectives set out in Paragraph 110 of the Framework.

44. I conclude that there would be an adverse impact on highway safety and operation in the vicinity of the access point, and that the development would also fail to accord with local design standards. This would be particularly aggravated during the construction phase. Although an additional access could potentially be created on Bosworth Road, this is a narrow winding rural lane and it is unclear whether it would be appropriate for construction traffic.

45. The development would therefore be contrary to Policy DM17 which requires proposals for new development to reflect highway design standards set out in the most up to date guidance adopted by the highways authority. Insofar as the development would generate significant movement, and would require considerable reliance on private transport it would also be contrary to the requirement of Policy DM17 to be located where the need to travel will be minimised and where the use of sustainable travel options can be maximised.

46. Paragraph 108 of the Framework requires development to provide safe and suitable access for all users, and that where there are significant impacts on highway safety, these should be cost effectively mitigated to an acceptable degree. Paragraph 109 of the Framework requires that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or that there would be severe cumulative effects on the road network. I am satisfied that with mitigation the cumulative effects on the wider transport network would not be severe. However, I am not satisfied that there would not be a severe localised impact around the single access point and there is nothing before me to demonstrate that these effects could be adequately mitigated.

47. Overall, I find harm in relation to highway safety and operation, but given its localised impact I conclude that the development would lead to moderate harm.

Living conditions

48. One of the agreed conditions is for the erection of an acoustic barrier to the boundary of the access and 2 Cunnery Close (No 2). The reason given is to minimise disruption to the neighbouring residents.

49. The Council is satisfied that if the appeal is allowed, and further surveys show that there would be unacceptable impacts from noise on the occupiers of No 2, this could be mitigated by acoustic fencing. However, at this point the full extent of those acoustic measures, such as the height and extent of fencing, has not been determined. It seems unreasonable to mitigate harm through such a condition when the full implications of that harm, or the mitigation, are so imprecise, especially when the site boundary runs directly alongside No 2's garden. Moreover, although I accept that this is an outline application the evidence before me includes a reasonably detailed layout plan which could have been used for an assessment of the impact on No 2.

50. In any case, even if future noise assessments concluded that the noise would not reach unacceptable levels in terms of volume, and an acoustic fence was not needed, there would be significant road and pedestrian traffic along the access and its footway. This alone would have an adverse effect on the living conditions of No 2 with regard to noise and disturbance.

51. I have set out above my concerns in relation to the visual effects of the development when viewed from dwellings on the south side of Cunnery Close in relation to the LVIA. In this regard I conclude that there would be an adverse effect on visual amenity. However, there is no right to a view and there is nothing before me to suggest that the dwellings would be close enough to the Cunnery Close building line to have an adverse effect on outlook in terms of enclosure.

52. It is difficult at this stage to reach a conclusion with regard to potential overlooking and loss of privacy for existing residents as the actual layout and careful glazing choices could mitigate those concerns.

53. Nonetheless, I conclude that there could be harm to the living conditions at No 2 and that the proposed mitigation for those effects could lead to other as yet unidentified harm. This would be contrary to Policy DM10 a) as well as Paragraph 127 of the Framework with regard to the amenity of existing residents.

Heritage Assets

54. The parties are agreed that the development would not have an adverse effect on heritage assets in Barlestone or Osbaston, and there is nothing before me to lead me to disagree.

Planning obligation

55. The evidence before me indicates that the development would have an adverse effect on local infrastructure and services, particularly with regard to health care and education. The parties have agreed and completed a Unilateral Undertaking (UU) to provide significant financial contributions for the provision of local services, including play and open space, support and monitoring for the travel plan, education, libraries, civic amenities and health care. There would also be a commitment to the provision of 40 per cent affordable housing. There is nothing before me to suggest that the contributions suggested would not provide adequate mitigation for the effects of the development on local amenities and infrastructure. However, as I have found harm in relation to the main issues it is not necessary for me to consider the UU further, except in relation to affordable housing, which is considered in the planning balance.

Other matters

56. Interested parties have raised concerns in relation to flooding, foul drainage, parking and highway safety for school children. However, as I have found harm in relation to the main issues it is not necessary for me to consider these issues further.

Other considerations

Housing Need and Supply

57. The Council has adopted a population based approach for housing need over the lifetime of its emerging local plan (ELP). On this basis, Barlestone will need to accommodate an additional 215 dwellings over the ELP period. This is significantly greater than the figure set out in the emerging NP but I see no reason to dispute the Council's figures in this regard. In any case, the NP figure is based on responses from a household survey which had a response rate of around 25 per cent. Whatever the reason for the non-return of surveys, it suggests that the housing need figure that emerged from the NP study is a significant under-estimate.

58. Although the Council's Housing Land Supply analysis concluded in March 2021 that it had 5.01 years housing land supply, a recent appeal[10] highlighted by the appellant concluded that the figure should be 4.39 years. That there is less than five years housing supply land is not now in dispute and this is confirmed in the SoCG. The figure of 4.39 years was supported by the appellant's analysis and I saw no reason to disagree. I concluded that there is a significant shortfall in housing supply across the district, and within Barlestone.

59. In that respect, the most important policies for determining this appeal are out of date in the terms set out in Paragraph 11d) and footnote 7 of the Framework. This requires that planning permission should be granted, unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This anticipates that a level of harm will potentially be acceptable.

Policy considerations

60. Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Furthermore, it is recognised by the courts that out-of-date policies can still be given some weight, particularly where their overall strategic aims might be designed to operate on a longer time scale than a particular plan period.

61. The Council cited three policies in its decision, Policies DM4, DM10 and DM17 of the Site Allocations and Development Management Policies DPD[11]. Policy DM4 seeks to protect land outside settlements to protect its intrinsic value, beauty, open character and landscape character. The policy sets out exceptions for what is considered to be sustainable development, as long as those exceptions do not have a significant adverse effect on the aims of the policy or undermine the physical and perceived separation and open character between settlements.

62. As one main issue is concerned with the expansion of the village into open countryside, and the restrictions primarily imposed by Policy DM4, I conclude

[10] APP/K2420/W/20/3260227
[11] Adopted July 2016

that Policy DM4 is one of the most important policies for determining the appeal. However, there is a very high degree of consistency between this policy and the overall design aims of Paragraphs 127 and 170 of the Framework, which are set out above. My approach in this regard is reinforced by a recent appeal[12] where the Inspector concluded that Policy DM4's objectives were the protection of the countryside from unsustainable development, rather than a blanket protection and that in that regard there was consistency between Policy DM4 and the Framework.

63. Policy DM10 sections a) and c) are concerned respectively with the impact of development on the amenity of nearby residents, and design. The wording of section c) appears to me to go beyond matters that would be considered at detailed design stage as it is concerned with a development's effect on the character of the surrounding area. Notwithstanding that this is an outline application, I am satisfied that this is also one of the most important policies for determining the appeal. There is also a very high level of consistency between Policy DM10 c) with Paragraphs 127 and 170 of the Framework, in terms of countryside protection, and between Policy DM10 a) and Paragraph 127 in terms of residential amenity.

64. Policy DM17 is concerned with highway issues and I find no conflict between Paragraph 109 c) of the Framework which states that development should only be presented or refused on highway grounds if there would be an unacceptable impact on highway safety and DMP Policy DM17 c) which requires development to demonstrate that there would not be a significant adverse effect on highway safety. It seems to me that *unacceptable impact* and *significant adverse effect* could be construed in normal English usage to be the same thing. In any case, neither effect is quantified in any documentation and it comes down to the decision maker's planning judgement. I conclude that this policy is also one of the most important policies for determining the appeal. However, the Framework does not require conformity with local highways design standards, and this regard Policy DM17 is more restrictive than the Framework. As such there is partial consistency between Policy DM17 and the Framework.

65. Policies CS7 and CS11 of the 2009 Core Strategy (CS) are supportive of some development in Barlestone, including additional housing. However, they set restrictions on the numbers of dwellings and location. As such these policies are based on a housing requirement which has been overtaken by the latest housing assessment need. Settlement boundaries will need to be more flexible to accommodate the projected need and in this regard these policies are inconsistent with Paragraph 59 of the Framework which sets out the need to significantly boost housing supply.

66. Moreover, further growth in Barlestone would in any case be consistent with Paragraphs 77 and 78 of the Framework which set out that in rural areas housing should reflect local needs and be located where it will enhance or maintain the vitality of local communities.

67. The Statement of Common Ground (SoCG) identifies other policies that are relevant to the appeal. Policies CS15 and CS16 taken together are concerned with affordable housing targets, and an appropriate mix of housing types and tenure and Policy CS14 is concerned with rural transport.

[12] APP/K2420/W/19/3222850

68. Policy CS20 sets out a green infrastructure network which requires the promotion of Barlestone as a 'gateway' village to the National Forest and Policy, and Policy CS19 sets out standards for green space and play provision.

69. Policy DM1 is very similar to Paragraph 11 of the Framework in that it outlines the principles of sustainable development. Policy DM3 requires development to contribute to improvements in infrastructure, amenities or facilities and Policy DM6 requires development to demonstrate how it will conserve and enhance features of nature conservation. Policy DM7 is concerned with safeguarding pollution and flooding, and Policies DM11, 12 and 13 are concerned with the historic heritage and assets.

70. These policies are broadly concerned with the provision of suitable housing, infrastructure, the protection of assets or areas, and protection from pollution. However, they would apply to any housing scheme in the district and are peripheral to the main issues. Consequently, they are of lesser importance in the determination of the appeal, although are all broadly consistent with the Framework. I have assessed in the planning balance the weight to be given to the conflict with the most important and other policies.

Benefits arising from the development

71. There is an outstanding housing need in Barlestone and across the district, particularly in relation to affordable housing and Paragraph 59 of the Framework states that it is the government's objective to significantly boost the supply of homes. In order to meet the identified housing demand, there could be a need for development in areas of open countryside and this could lead to conflict with Policies DM4, DM10, CS7 and CS11.

72. The development would provide around 80 per cent of the Council's projections for Barlestone's housing need until 2036 in one development, and would be ready about half way through the plan period. This would be of considerable benefit to the district, particularly as the development would include 40 per cent affordable homes in line with Policy CS15.

73. However, there are other potential development sites in and around the village. Permission for 99 affordable dwellings at Garden Farm has recently been granted permission. This would exceed the long term affordable housing targets and would meet nearly half of the overall market and affordable long term housing need. There is nothing to indicate that this is not deliverable in a similar timescale to this appeal. The appellant noted that the planning obligation is incomplete but the granting of permission is very recent. There is nothing before me to indicate that the obligation might not be completed.

74. Furthermore, there is an extant permission for 8 homes on Newbold Road[13] and a further recent application for 55 dwellings on Barton Road was referred to at the hearing. These applications suggest that there are alternative sites around the village which are less extensive than what is proposed here. Moreover, as they all appear to be on the village's northern boundaries, their development would not intrude into the village's distinctive southern setting.

75. There are also windfall sites which have had permission in the past which has now lapsed. Although the reasons for those lapses is unclear it remains that there are additional identified sites, of varying size, in locations where

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development would not result in harm to the settlement's setting and where in the past the Council has given permission.

76. I appreciate that housing targets are minima rather than maxima, but even if I take only the Garden Farm development into account, this reduces the overall weight I give to the appellant's arguments with regard to the contribution this application would make to the village and district's housing need. Nonetheless, the contribution to market and affordable housing would be highly significant.

77. The development would also provide an estimated 166 full-time and 181 part-time jobs over a five year build period. Although there is nothing before me to indicate that these jobs would be sourced locally or from within the district, the expansion of the village would provide long term support for local services as well as a short-term boost to the local economy during the construction phase. I give this benefit moderate weight.

78. There would also be a children's play area, and informal recreation areas associated with the boundary buffer strip and the area around the attenuation pond. However, it is unclear how this amenity space would contribute to Barlestone's status as a gateway to the National Forest or link to other strategic green infrastructure within the district. I am not satisfied that this open space would represent a significant net benefit to the village as the development would present as a semi-contained enclave with limited connectivity. As such, I give this modest weight.

79. The argument is advanced that there would be a net biodiversity gain. However, given the development's likely density, such wildlife as there might be is highly likely to be disturbed by the increase in noise, disturbance and light pollution. The evidence also indicates that the existing hedgerow trees, some of which have significant deadwood and fungal infections, would require management to mitigate safety concerns once they are within areas of increased public traffic. This in itself would reduce biodiversity and diminish the visual impact of the hedgerow. The management of any new planting would also be predicated upon public safety, and in my experience residents generally expect a degree of management and tidiness in open space where it is near their dwellings or heavily used recreational areas. This would limit the biodiversity potential of new or retained vegetation.

80. Moreover, the conclusion of the ecological report is that the development would avoid or minimise potential adverse impact, rather than result in a biodiversity gain. The report is also slightly inconsistent in that it states that all the current habitats are of low value but also that two stretches of hedgerow are of high conservation value. As such, although there would be some opportunity to plant native species on the periphery and around the attenuation ponds the proximity of a large and fairly dense residential development and the proposed use of this area for recreation would limit the effectiveness of what would in any case be relatively small areas of new planting. I give this benefit limited weight.

81. Although developer contributions would provide additional funding for other services such as health, education and the encouragement of more sustainable travel, these are aimed primarily at mitigating the effects of the development rather than providing new or enhanced facilities for the existing community and would have at best a neutral effect.

Planning balance and conclusions

82. The appeal scheme would result in a significant intrusion into a distinctive landscape as well as an adverse effect on living conditions and highway safety. In this regard there would be significant conflict with Policies DM4, DM10 a) and c), and moderate or minor conflict with Policies DM 17, CS7 and CS11.

83. As I have found that Policy DM4 is broadly consistent with the Framework in terms of protecting the countryside, I attach substantial weight to the development's conflict with this particular policy. My approach in this regard is reinforced by a recent appeal[14] where the Inspector concluded that Policy DM4's objectives were the protection of the countryside from unsustainable development, rather than a blanket protection and that in that regard there was no conflict between Policy DM4 and the Framework.

84. Similarly, I have not found any inconsistency between Policy DM10 a) and c) and the Framework, and consequently I also give that the conflict with that policy considerable weight in relation to the harm identified to the character and appearance of the area, and living conditions.

85. I give the conflict with Policy DM17 reduced weight for the reasons set out above. Policies CS7 and CS11 are based on a housing need which has been overtaken by events and I give the conflict with these policies very limited weight.

86. With regard to the less important policies, the development's contribution to biodiversity has been overstated, and there would be at best minimal net gain to local biodiversity. This would amount to some conflict with Policy DM6. Although there would be no conflict with Policy CS20 with regard to green infrastructure, I give this limited weight in favour of the appeal.

87. The housing mix and type would be considered at reserved matters stage and I see no reason why the development should not accord with Policies CS15 and CS16 in this regard. Similarly, the appellant would be required to contribute to infrastructure if the appeal was allowed, as required by Policy DM3, and there is nothing before me to indicate that the development would not meet the required standards of green space and play provision as required by Policy CS19.

88. Notwithstanding my observations in relation to noise and residential amenity at No 2, there is nothing before me to indicate that there would be conflict with Policy DM7 which is concerned with flooding and pollution. In any case insofar as this policy mentions noise it appears to be concerned only with disturbance in areas valued for their tranquillity which is not the case with Cunnery Close. Policies DM11, DM12 and DM13 are concerned with heritage assets and weigh neither for nor against the appeal.

89. I have set out above that Policy CS14 requires developers to contribute to local rural transport initiatives. Although it is difficult to ascertain how effective this would be, there would be no conflict with this policy.

90. I have found that there would be significant benefits in terms of market and affordable housing arising from the development, as well as modest long term economic benefits alongside a short term economic boost during the

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construction period. The other benefits would be at best modest. Against these benefits there would be significant visual intrusion into the sensitive southern village edge, as well as localised impacts on highway safety. Moreover, the evidence before me indicates that there are sites available for housing development in less intrusive and sensitive locations.

91. As such, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against policies in this Framework taken as a whole.

92. The identified conflict with the development plan taken as a whole is not outweighed by material considerations. The appeal should be dismissed.

A Blicq

INSPECTOR

APPEARANCES

Appellant

Mr S Carvel	Gladman
Mr A Collis	Gladman
Mr T Jackson	FPCR
Mr D Stoddart	Prime Transport Planning
Mr B Pycroft	Emery Planning

Council

Mr D Jones	Leicester County Council
Ms R Hill	Hinckley and Bosworth Council
Ms E Casey	Hinckley and Bosworth Council
MS H Nightingale	Hinckley and Bosworth Council
Mr A Gray	Aitchison Rafferty
Mr D Young	SCP Transport

Interested parties

Mr S Hextall

Cllr B Crooks

Vice Chair Ms E Tegg