



Appeal Decision

Site Visit made on 7 July 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 6 October 2021

Appeal Ref: APP/L2630/W/20/3262063

Land off Burgate Lane, Poringland

- 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 against the decision of South Norfolk District Council.
- The application Ref 2019/1593, dated 31 July 2019, was refused by notice dated 29 April 2020.
- The development proposed is outline planning application for the erection of up to 98 residential dwellings including 5 live/work units, structural planting and landscaping and a sustainable drainage system (SuDs) with a vehicular access point from Burgate Lane. All matters reserved except means of access.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 25 August 2021.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for access. I have assessed the proposal on this basis and treated all of the drawings as simply being an illustration of how the proposal could ultimately be configured.
3. Subsequent to the determination of the planning application the Poringland Neighbourhood Plan (the NP) has been adopted and now forms part of the Development Plan. The Council has identified the Policies of the NP which they consider most relevant to this appeal, these being Policies 2, 4, 7, 8, 9, 13, 14, 15, 16 and 18. The appellant has had the opportunity to comment. I am satisfied that both parties have had the opportunity to consider the relevance of the NP to the appeal and neither party would be prejudiced if I take these policies into account in my decision.
4. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in July 2021 (the Framework). I have invited the main parties to comment on the Framework and I have taken account of any responses from them in my determination of the appeal.
5. The appellants submitted a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (the UU) which provides for a minimum of 36% of the dwellings to be affordable housing and deals with the provision and

management of open space and a play area. The Council have had the opportunity for comment on the contents of the UU.

Main Issues

6. The main issues in this appeal are:

- The effect of the proposal on the character and appearance of the site and the surrounding area;
- The effect of the proposal on hedgerows; and: -
- Whether the site is a suitable location for housing, having regard to local policy for the provision of housing.

Reasons

Character and appearance

7. Policy 2 of the Greater Norfolk Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk -adopted 2011, amendments adopted 2014- (the JCS) and Policies DM3.8 and DM4.5 of the South Norfolk Local Plan Development Plan Management Policies Document -2015- (the DMPD) together seek to ensure that all development, amongst other things, respects, conserves and, where possible enhances the landscape character of its immediate and wider environment.
8. Policy 8 in conjunction with Map 4 of the NP identifies the site as forming a part of a defined landscape valued by the community, which is important to the setting of the village, establishing it within its rural hinterland. Policy 8 states that proposals for development within this important landscape will not be supported unless specifically supported by other policies in the Development Plan. Policy 4 of the NP seeks to resist changes that will further accentuate the linear nature of development in the village. The above policies are thus in close accord with the aims of Sections 12 and 15 of the Framework.
9. The appeal site is two open fields, separated by a ditch. The boundary to Burgate Lane is formed by a mature hedgerow, pierced by a field access. The site shares one boundary with housing developments separated by a band of well-established trees and a drainage ditch, whilst the other boundaries are open. Beyond these other boundaries of the appeal site are open fields interspersed with pockets of woodland. The wider countryside is relatively flat, but contains gentle valleys, on occasion affording longer views across the landscape. To the south of the site runs a public footpath¹, running parallel to the site boundary. This links to a bridleway² running along part of the western boundary. Whilst existing planting on the boundaries and in the wider area, limit longer views into, and out of, the site, the southern boundary is relatively open and visually permeable. There are some closer views into the site from the adjacent housing, albeit that these are limited by the existing planting.
10. Burgate Lane is, on the frontage of the site, a narrow, unlit rural lane without footway provision and is subject to a 60MPH speed limit. On the opposite side to the site the hedgerow is intermittent and contains numerous mature trees. There is a ditch beyond the treeline. At the interface with the existing

¹ Poringland FP7

² Poringland BR6

development a 30MPH speed limit commences and from this point there is footway provision which carries on into the town.

11. The site, at the time of my visit, contained an arable crop in the larger field, whilst the smaller was grassed. The appeal site sits clearly outside of the built up area of the town and in the countryside and there is a clear division between the two as logically defined by the settlement boundary. Being undeveloped and verdant in appearance the appeal site reads as part of the countryside and its separation by the hedgerow fronting Burgate Lane and the enclosure behind the hedgerow and planting between it and the existing housing reinforces the sense of rural peace and tranquillity.
12. The appellants' Landscape and Visual Appraisal identifies that the appeal site lies within landscape type D: Settled Plateau Farmland and Landscape Character Area as identified in the South Norfolk Landscape Assessment -2001- (the SNLA), specifically D2: Poringland Settled Plateau Farmland.
13. Amongst the key characteristics the SNLA identifies the area as a flat landscape which rises to a gentle central dome, with strong open horizons with large scale open arable fields with long views from the plateau edge. It notes the presence of poor hedgerows but wide road side verges and numerous remnant hedgerow standards, particularly around settled areas. The appeal site exhibits many of the features identified as being typical of the Poringland Settled Plateau Farmland landscape character and makes a positive contribution to the rural setting of the town.
14. The SNLA identifies settlement as being characteristic of the plateau, with a fairly even balance between residential areas and farmland, the farmed plateau providing a rural setting for the built-up areas.
15. The proposal would introduce up to 98 dwellings into the site, carry out works to widen part of Burgate Lane and provide a footway linking to the existing stretch. Notwithstanding that the proposal is in outline form, such a composition of the development would result in a dense urban form. Whilst it is intended that the southern part of the site would be an open space, this would inevitably remove the openness of the field, blocking views across to the open countryside from Burgate Lane and the housing development to the west, and harmfully jar with the peaceful rural character of the site and its immediate environs in that direction.
16. Highway works to form the access are proposed, necessitating the removal of a significant stretch of the hedgerow on that frontage. Although the constituent shrubs of the hedgerow would be replanted, and so, subject to successful transplantation, not destroyed, they would be moved away from their current location to reflect the need for additional width on the highway.
17. The new footway and other hard works, including the widened carriageway would, together, give the road an increased urban appearance and reinforce the perception that the development is sprawling into the countryside.
18. The illustrative form of development would not be incongruous with that of the development to the west. However it would spread built form incrementally further into the open, verdant countryside, altering the balance between urban and rural landscape in favour of urban form. I note that the SNLA identifies such sprawl as a particular sensitivity and vulnerability of the character area,

- along with the intrusion of development upon plateau edge views either from the plateau or visible from the surrounding countryside and the intrusion of developments upon the setting or views from recreational routes.
19. Overall the proposal would urbanise the character and appearance of the site and this increased urbanisation, together with the reduction in verdancy of the site resultant from the increase in built form, would significantly harm the open, tranquil, rural character and appearance of the site and the surrounding area to which the site makes a positive contribution.
 20. There would be long views from Bungay Road and from the wider countryside including nearby dwellings and the footpath. In these views the extension of built urban form out into the countryside would be apparent. At night the urbanising effect of lighting would be apparent to persons in the wider area.
 21. The appellants propose strengthening of the boundary vegetation. This would seek to limit views of the development from outside the site, offset the loss of a section of the hedgerow in the creation of the access and, coupled with a strategy to manage lighting on site, reduce the visibility of light sources. Were I minded to allow this proposal, building heights could be constrained and set-back of buildings from Burgate Lane could be achieved to mitigate the visibility of buildings from Burgate Lane, to a degree, during the reserved matters applications.
 22. However, during my site visit I observed that, whilst the adjacent sites have a degree of screening, views of development, albeit limited, are still available from the wider area. Future planting would take time to establish itself and there is no evidence before me, particularly given the lie of the land between the site and Bungay Road, and the proximity of the footpath to the appeal site and the indicative location of the buildings, that planting would successfully address the harmfully visible urban nature of the proposal. This would remain apparent to passers-by within the site, from the nearby roads and footpath, and the surrounding countryside, as is the case with the adjacent development.
 23. I therefore conclude that the proposal would result in significant harm to the character and appearance of the site and the surrounding area. The proposal would therefore be contrary to Policy 2 of the JCS, Policies DM3.8 and DM4.5 of the DMPD and Policies 4 and 8 of the NP.

Effect on hedges

24. Policy DM4.5 of the DMPD seeks to safeguard the landscape character and distinctive landscape characteristics of the area. Policy DM4.8 of the DMPD seeks to retain hedgerows that are 'important', as defined by the Hedgerows Regulations 1997 (the Regulations), together with other significant hedgerows. Through its wording Policy DM4.8 allows, even where a hedgerow is significant, removal where the benefits of development would clearly outweigh the loss of the hedgerow. Policy 7 of the NP seeks to retain existing hedgerows or, where a strong case is made for their removal, to secure mitigation that is at least equivalent to the hedgerow removed. The aims of these policies are in close accord with the aims of Sections 12 and 15 of the Framework.
25. The hedgerow lying along the boundary of the site with Burgate Lane is mature and, other than the field access, contains no significant gaps. During the course of the application the appellants submitted documents assessing the ecological

and arboricultural effects of the proposal³. There is no dispute between the parties that the hedgerow qualifies as an 'important' hedgerow under the wildlife and landscape criteria of the Regulations.

26. The proposal would remove a significant length of the hedgerow to form an access onto Burgate Lane for pedestrians and vehicles. The component shrubs forming the hedgerow would be retained for replanting.
27. The Ecological Appraisal (EA) identifies the hedgerow as being of high to very high nature conservation value (Grade 1) due to a combination of its good structural attributes, species-rich nature and associated features and thus a Habitat of Principal Importance.
28. The hedgerow would facilitate the movement of certain species present in the area for foraging and other needs and the EA records foraging activity along the northern boundary hedgerow, albeit limited. The EA, concluded that, following translocation of the hedgerow there would not be significant disruption to foraging for bats, particularly after the re-establishment of the translocated elements of hedgerow and additional green infrastructure provision. The establishment and growth of the green infrastructure would, however, take time.
29. Whilst, during the establishment of the green infrastructure, the trees, ditch and partial hedging on the far side of Burgate Lane would provide cover on a parallel linear route, the nature of this cover differs from that of the hedgerow to be removed. It is sparser than the dense hedgerow fronting the site. I therefore consider that the break in cover provided by the hedgerow would disrupt the movement patterns of creatures using it as a linear route and this disruption would constitute material harm. Further, the gap would also be a road crossing which would, of itself, create a threatening environment for wildlife crossing it.
30. A contributory factor in the importance of hedgerows can be their historical importance. The Council's Landscape Architect identifies that such a consideration is relevant here. There would no longer be a length of hedgerow on the historic line, and the new alignment would lack this historic relevance. Following translocation the constituent parts of the hedge would no longer identify the historic line, nor would they retain the status of an "important" hedgerow within the requirements of the Regulations.
31. The proposal would introduce a new break in the hedgerow. This break would be visually substantial. Given the contribution that the hedge makes to the character and appearance of the site and the surrounding area, which I have described above, this gap would be notable and undermine the degree of continuity of hedging, replacing it with more urbanising features.
32. Bringing these strands together, the loss of a length of hedgerow would compound the harm that I have found above to the character and appearance of the site and the surrounding area and result in some harm to the ability of fauna to move around the area. There would be harm to the historical value of the hedge by virtue of its translocation and disruption to the movement of foraging species. In this case the benefits associated with providing up to 98 new homes to supplement the Council's housing stock and the landscaping of

³ Ecological Appraisal, Ecological Update Note, Arboricultural Assessment (2019), Arboricultural Assessment (2020)

the site, which I will discuss later, would not clearly outweigh the harm to the character and appearance of the site, disruption to fauna resulting from the loss of a significant length of the important hedgerow and the translocation of its constituent parts.

33. Therefore I conclude that the proposal would result in material harm to the important hedgerow and would be contrary to Policies DM4.5 and DM4.8 of the DMPD and Policy 7 of the NP.

Suitable location for housing

34. The JCS sets out a spatial strategy which seeks to locate development, including housing, in locations with access to goods and services whilst protecting the natural environment from inappropriate development. Poringland is identified on Map 1.3 (1) of the DMPD as a Key Service Centre, suitable for the location of development of a scale proportionate to the level of growth planned in that location. However, the site lies outside of the identified settlement boundary. It is therefore in the countryside for planning purposes where development will only be permitted subject to the exceptions set out in the Council's countryside policies.
35. Section 1) of Policy DM1.3 of the DMPD seeks to restrict development to allocated sites or sites within the development boundaries of Settlements defined on the Policies Map, which includes Poringland, as a Key Service Centre. The appeal site is in neither and is therefore at odds with the first limb of this policy. However Section 2) of the policy allows development outside of the development boundaries if one of two criteria apply.
36. To satisfy these criteria, the development must either be allowed under specific Development Management Policies, or otherwise demonstrate overriding benefits in terms of economic, social and environmental dimensions as addressed in Policy 1.1 of the DMPD. Policy 1.1 of the DMPD ensures that development accords with the aims of the Framework in encouraging sustainable development. For benefits to be 'overriding' they need to be of such force that they are more important than any other consideration.
37. The development plan thus envisages circumstances where there are overriding benefits which would justify development outside of development boundaries and I note that this accords with the conclusion reached by another Inspector in his decision at Wymondham⁴
38. Policies, such as Policy DM 2.11 and DM3.2 of the DMPD identify exceptions for certain types of housing that would make them acceptable in policy terms. No argument has been made that the proposal accords with any of these exceptions. However, it has been suggested that the site demonstrates such overriding benefits as to outweigh any harm and I will return to this later.
39. Policy 4 of the NP supports, subject to certain criteria, development within the development boundary or on allocated sites and seeks to resist changes that will further accentuate the linear nature of development in the village.
40. Policy 2 of the NP generally restricts proposals for housing development to no larger than one hectare unless they would meet an identified specialist housing need or provide and deliver the supporting community and infrastructure

⁴ PINS Ref: APP/L2630/W/15/3136321

needed. Whilst many representations from local people raise the matter of the additional burden that the development will place on existing community facilities and infrastructure, there is little substantive evidence before me that local services and infrastructure would be overwhelmed by the demand generated by the proposal, or that the payments generated by the development would not make provision to offset this.

41. The proposal would provide up to an additional 98 dwellings to supplement the Council's housing supply. 36% of these would be provided as affordable housing and 5 would be live/work units. The development is located adjacent to a settlement which has a very good level of existing services and which benefits from sustainable transport linkages to the wider area. Poringland has been identified as being suitable for additional development.
42. Whilst, historically, there has been a shortfall in delivery of housing numbers in the Greater Norwich Area when measured against those identified in Policy 4 of the JCS, there is little substantive evidence before me upon which to dispute that the Council is currently able to demonstrate a five year supply of housing land (5YSHL). The Council is therefore contributing a significant boost to the supply of housing in the Greater Norwich Area. However, the identified housing need is not a maximum figure, nor is there any substantive evidence before me to demonstrate that an additional 98 dwellings would lead to over-supply in the local housing market. This would be in keeping with the conclusion of other Inspectors⁵ which the appellants have drawn to my attention.
43. The site would provide up to an additional 35 affordable homes. This would be secured by the necessary UU and the government have identified a need to substantially boost the availability of affordable housing. Historically the Council have been unable to satisfy targets for affordable housing and I note that Saffron Housing Trust have expressed support for the provision and an interest in working with the developer in providing the affordable units.
44. I note the interest in developing the site expressed by housebuilders and there is no reason to doubt that the site could be successfully delivered. Taken together, given the scale of the development, the provision of up to 98 new dwellings, including an elevated level of provision of affordable homes where there is an identified shortfall, would, notwithstanding the ability of the Council to demonstrate a 5YSHL, be a benefit carrying moderate weight in my decision.
45. The proposal would provide benefits to both existing residents and future occupiers of Poringland. The site would provide support for the local economy in terms of short-term employment in the construction industry, and supply chain and I am conscious of the benefits that increased activity in the housing and construction market would contribute towards economic recovery following the Coronavirus epidemic. There would also be increased revenue from the New Homes Bonus. The proposal would provide 5 live/work units which would provide long term support for the local economy through facilitating the growth of small businesses and supporting home working. There would also be longer term support to local businesses through increased activity associated with population growth in the area and, given the scale of development I give the economic benefits moderate weight overall.

⁵ PINS Ref: APP/D3505/W/18/3217096 and APP/K2610/W/19/3239986

46. The proposal would provide environmental benefits. Whilst the Masterplan provided is illustrative only, it is intended that there would be supplementary planting along boundaries to reinforce existing hedgerows and to soft landscape the southern part of the site to provide local amenity areas secured through the necessary UU. Given the increase in the number of trees and the overall length of hedgerow the proposal would facilitate an overall benefit in ecological terms. Although the field and its arable crop would be lost, this is unlikely to support a significant wildlife population, whilst the increased area of planting including the contribution from hedgerows would, in the longer term, improve and provide habitat that could support wildlife, including improved foraging routes away from the road. The proposal would incorporate a sustainable drainage system, which could be secured by a suitable planning condition. This has potential to minimise runoff, replenish the water table and provide additional habitat. The overall ecological benefit resultant from the development would be moderate.
47. The proposal would provide social and environmental benefits through additional linkage to access the countryside, in the form of a new right of way through the site to join the footpath network. However, there is already a number of rights of way through the surrounding countryside and the additional benefit provided through the new link would be limited.
48. There would be further social benefits deriving from the proposal in the support it would provide to local clubs and the provision of a children's play area within the site. There is no evidence before me to suggest that these clubs are struggling for membership or that there is a shortage of play areas within the settlement accessible to the residents. There would be further social benefits resulting from footway improvements in the local area and improvements to public transport facilities, providing bus shelters, seating and improving accessibility. These are benefits that, taken together and by virtue of their scale, carry limited weight.
49. The proposal would result in harm, both in undermining the broad thrust of the Council's spatial strategy to locate development in settlements and protect the natural environment and, as a consequence, plan-led decision making. This together with the harm that I have identified to the character and appearance of the landscape, including visual harm associated with the creation of the gap in the hedgerow, undermining the historic importance of the hedge as a feature within the landscape and disrupting foraging patterns, are significant factors weighing against the scheme and overall they are matters that outweigh the benefits in this instance.
50. The test in Policy 1.3 2 d) of the DMPD requires that, in order to be acceptable under that policy, development should demonstrate an overriding benefit. In these circumstances the benefits are not so compelling as to constitute an overall benefit.
51. My attention has been drawn by the appellants to an appeal decision⁶ in Chedgrave in regard to the interpretation that should be given to the key operative word "overriding" within Policy DM1.3 of the DMPD. In this case, as will be seen above, I do not consider that the benefits outweigh the harm at all when assessed against the strands of sustainable development as set out in Policy DM1.1 of the DMPD and the Framework.

⁶ Planning Inspectorate Ref: APP/L2630/W/20/3263886 APP/L2630/W/20/3263886

52. The appellants have brought my attention to several appeal decisions⁷ where weighting was allocated to benefits accruing from the proposal and a balance was carried out of those benefits against the harm resultant from the proposal. Whilst it is needful that there be consistency of approach in assessing weight, the balance and its outcome are specific to each case and I have considered the proposal before me on its own merits.
53. My attention has been particularly drawn to the Inspector's recent decision at Memorial Hall, Brundall, for a residential development, in which the appellants identify that several of the benefits of the proposal, which the Inspector concluded outweighed the harm, were similar in nature. However, I note that this proposal included, amongst its identified benefits, a greater quantum of development, the provision of a sports hall and for the provision of a Country Park which delivered many aspects of an identified infrastructure project plan known as Witton Run GI Project. I do not, therefore consider the cases to be comparable to such a degree as to set a precedent. I have, in any case, determined this appeal on its own benefits.
54. I therefore find that the site is not a suitable location for housing, having regard to local policy for the provision of housing and is contrary to Policies DM1.1, DM1.3 and DM3.2 of the DMPD and Policy 4 of the NP.

Other Matters

55. I have found no substantive evidence that the proposal would be contrary to Policy 2 of the NP in as much as it would place an unacceptable burden on existing services without addressing the impacts of that demand.
56. I have been made aware of various appeal decisions relating to apparently similar proposals in the area. The individual merits of each of the examples given have resulted in decisions appropriate to the site, at that time. From the limited evidence before me it would appear that none are directly comparable in context or location. In any case, I have determined this appeal upon its own merits.

Planning policy context

57. Paragraph 11d) of the Framework is precise in its language regarding whether planning policies are out-of-date. Its reference to "application" rather than "appeal" means that it is those policies relating to the consideration of the whole scheme rather than those matters in dispute at the appeal that should be included. However, "most important" policies does not mean "all relevant" policies and it is a matter of judgement for the decision-maker to decide what these may be. It is the basket of most important policies as a whole that is the relevant consideration.

The most important policies

58. The Policies specifically referred to in the Council's decision notice were amongst those which constitute the most important policies in this case. These being Policy 2 of the JCS and Policies DM1.3, DM3.2, DM4.5 and DM4.8 of the DMPD fall into this category.

⁷ Planning Inspectorate Refs: APP/R0660/A/13/2197532, APP/R0660/A/13/2197529, APP/K2610/W/19/3239986, APP/E2001/W/20/3250240, APP/B3410/W/20/3245077, APP/G5180/W/20/3257010, APP/Z2830/W/20/3259839, APP/Z2830/W/20/3261483

59. Policy 1.1 of the DMPD is clearly relevant as this sets out the basis of establishing whether a proposal is a sustainable development and it is these criteria that provide the framework of sustainability against which the test within Policy 1.3 of the DMPD is carried out.
60. Policies 2, 4, 7 and 8 of the NP are also relevant to this appeal as they have similar aims to the Policies identified above and now form part of the Development Plan.
61. The most important policies to this application proposal are thus as follows:
- JCS: Policy 2,
 - DMPD: Policies DM1.1, DM1.3, DM3.2, DM3.8, DM4.5 and DM4.8,
 - NP: Policies 2, 4, 7 and 8.
62. Whether development plan policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on matters such as their degree of consistency with its policies, whether matters have changed on the ground or new local policies have been adopted or whether there are other material considerations which render the policy out of date. Policy 2 of the JCS, Policies DM1.1, DM1.3, DM3.8 and DM4.8 of the DMPD and Policies 2, 4, 7 and 8 of the NP do not fall within this category and this is not disputed by the Council or the appellants.
63. Whether Policy DM4.5 of the DMPD, which seeks to ensure that all development, amongst other things, respects, conserves and, where possible enhances the landscape character of its immediate and wider environment is up-to-date is questioned by the appellants. The appellants cite an Appeal Decision⁸ at Holmewood, in Derbyshire where they identify that a policy which they consider to have similar wording was considered to be out-of-date by the Inspector.
64. I do not have the wording of the policies being considered by that Inspector in her decision before me, but I note her conclusion that "Taking the above together, of the policies I have identified as most important, NE1 is consistent with the Framework, whereas GS1 and GS6 are not. Policy NE1 is dedicated to landscape matters, which is the main issue in contention this case." On a similar basis I conclude that Policy DM4.5 is not out-of-date, given its consistency with the aims of the Framework to conserve and enhance the natural environment.
65. Whilst there is nothing explicit in the Framework that restrict development of Greenfield sites in order to meet its objectives, and here my attention has been drawn to the Appeal Decision⁹ at Woolpit, I note the aims of Section 15 of the Framework in regard to recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.
66. The appellants also dispute whether the housing policies within the Development plan are out of date on the basis that housing completions are lagging behind the levels identified in the JCS. As the JCS is more than five years old, housing needs are assessed by the standard method as required by

⁸ PINS Ref: APP/R1038/W/20/3251224

⁹ PINS Ref: APP/W3520/W/18/3194926

the Framework. The standard method takes into account historic shortfalls in its calculation. There is no evidence before me to demonstrate that the Council is failing under the Housing Delivery Test. I therefore conclude that, whilst the allocations identified within Policy 4 of the JCS no longer apply, by virtue of material changes on the ground and new policies, this is no basis upon which to conclude that the Council's policies for housing delivery are, as a whole, out-of-date.

67. Policies DM1.3 and DM3.2, amongst others within the DMPD, seek to restrict inappropriate development in the Countryside, limiting development to within identified settlement boundaries that require a countryside location. Policy DM1.3 allows development outside of development boundaries where there is an overriding benefit. As such these policies are in close compliance with the aims of Sections 2, 5, 9, 12 and 15 of the Framework and, therefore, are not out-of-date.
68. For the reasons set out above, I have found that all of the most important policies are not out-of-date. However, a consideration of whether the basket itself is out-of-date and therefore whether the appeal scheme complies with the development plan as a whole is a matter to which I will return in my final conclusions.

Planning Balance and Overall Conclusions

69. The appeal site is within a countryside location and outside the development limits for Poringland. There would be harm to the landscape of the area, including a hedge.
70. I have identified the most important policies for determining this application. Of these the proposed development would conflict with Policies DM1.1, DM1.3, DM3.2, DM3.8 and DM4.5 of the DMPD, Policy 2 of the JCS and Policies 2, 4, and 8 of the NP in as much as it would result in harm to the landscape and expand development into the countryside contrary to the thrust of the Council's spatial strategy. Whilst there are some policies with which the proposal would comply, Policy 4 of the JCS being one example, as it provides a level of affordable housing above the requirements of the development plan, and as noted by Lord Justice Lindblom¹⁰, policies in local plans often pull in different directions, in my judgement the appeal scheme would conflict with the development plan when taken as a whole.
71. Paragraph 11 of the Framework establishes the presumption in favour of sustainable development. The "tilted balance" may be engaged in 2 circumstances. In relation to housing provision, whilst the appellants dispute that the Council can demonstrate a 5 year supply of deliverable housing sites to meet its local housing need, they have provided limited evidence to support that view. The Council produce annual housing position statements to support their position. In relation to the most important policies I have found that they are not out-of-date. Overall, I consider that the basket of most important policies is not out-of-date in this case. For these reasons the "tilted balance" would not be engaged.

¹⁰ Cornwall Council v Corbett [2020] EWC Civ 508

72. I have concluded that the most important policies are broadly or closely consistent with the Framework and overall I attribute significant weight to the conflict with these policies.
73. The appeal proposal would include a number of social, environmental and economic benefits and I have already identified these above. In my overall judgement the positive factors are insufficient to outweigh the negative ones, and do not indicate that the decision should be made otherwise than in accordance with the Development Plan.
74. The proposed development would be contrary to the Development Plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I Dyer

INSPECTOR