



Appeal Decision

Hearing held on 26 July 2023

Site visit made on 27 July 2023

by Anne Jordan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2023

Appeal Ref: APP/W2845/W/23/3316236

Land north west of Blenheim Rise, Kings Sutton, OX17 3QY

- 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 Rectory Homes Ltd against the decision of West Northamptonshire Council.
 - The application Ref WNS/2022/0071/MAO, dated 14 January 2022, was refused by notice dated 12 August 2022.
 - The development proposed is outline planning application with all matters reserved except access for the erection of up to 32 dwellings including affordable housing, together with creation of new areas of open space, a new access off Hampton Drive, landscaping and all enabling and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline form, with access proposed for approval, and the other matters, appearance, scale, layout, and landscape reserved. As part of the submitted plans a Framework Plan has been provided which shows the developer's intentions in relation to the general disposition of development across the site and the broad location of flood attenuation and open space. I have treated the plan as indicative only.
3. The description of development was changed during the course of the application to change the potential number of dwellings on site from 31 to 32. The "red-line" on the application remains unchanged. The Council is satisfied that this does not materially alter the nature of the scheme and that the decision was validly made. I have therefore determined the appeal on the revised basis.
4. The appeal submission is supported by a signed legal agreement which makes provision for affordable housing, healthcare, children's play and provision for young people, allotments, playing fields, early years contribution, library contribution, refuse and recycling contribution. The Council confirmed at the hearing that it considered the agreement to be sufficient to address the concerns raised in the fourth reason for refusal and as a result was not defending this as part of the appeal.
5. The Council confirmed that at the time of the hearing it could demonstrate a 6.9 years supply of housing land. The appellant does not dispute this. Both parties agreed that as a result, the "tilted balance set out in paragraph 11 of the National Planning Policy Framework (The Framework) was not engaged.

Main Issue

6. Accordingly, the main issues for the appeal are:

- Whether the proposal would be in an appropriate location, having regard to local and national policies which advocate development in locations which are accessible to local services and restraint to development in a countryside location,
- The effect of the proposal on the character and appearance of the area, including landscape character, and
- The effects of the proposal on heritage assets, in particular, archaeological remains.
- whether the proposal makes adequate provision for infrastructure including affordable housing.

Reasons

Policy background

7. The development plan for the application site is made up of the West Northamptonshire Joint Core Strategy (JCS) and the South Northamptonshire Local Plan 2020 (LP Part 2). The parties have put forward a number of policies from these plans and I consider the following to be most relevant to the proposal before me.
8. Policy R1 of the JCS promotes a sustainable pattern of development and sets out the settlement hierarchy for the district including the factors that the LP Part 2 should take into account in determining where settlements should sit in the hierarchy. It also sets out criteria for development proposals within the rural areas. Furthermore, it states that development in rural areas will be supported where it would result in environmental improvements and, amongst other things, has been informed by an effective community involvement exercise prior to submission. SS1 of the LP Part 2 defines the hierarchy of settlements in the district. Policy LH1 of the LP Part 2 states that development outside settlement boundaries will be resisted unless the development meets the criteria set out in policy R1 of the JCS.
9. Policies S10 and R1 of the JCS together and amongst other things seek sustainably located development which is in keeping with the scale and character of the settlement, and which protects and enhances the natural environment. Policy SS2 of the LP Part 2 provides design principles for new development, including the aim of ensuring new development does not result in the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement. Policy NE1 of the LP Part 2 relates specifically to Special Landscape Areas (SLAs) and states that within SLAs, development outside of settlement confines should avoid harmful impacts to the character and appearance of the area.
10. Policy BN5 of the JCS and Policies HE1 and HE2 of the LP Part 2 together seek to conserve the significance of heritage assets, including non-designated heritage assets and require proposals for the development to demonstrate an understanding of the impact of development on the significance of such assets.

11. Policies INF1 of the JCS and policy INF1 of the LP Part 2 both seek to ensure that new development is appropriately served by the necessary infrastructure to serve it. Policy LH8 of the LP Part 2 sets out the policy requirements for the delivery of affordable housing within South Northamptonshire District and identifies that proposals for 10 or more dwellings should achieve 50% affordable housing in the rural areas.

Whether the development would be in an appropriate location

12. The site lies outside, but adjacent to, the settlement boundary of Kings Sutton. It is therefore classified as lying in open countryside. The village is defined as a Primary Service Village in Policy SS1 of the LP Part 2. Policy R1 of the JCS defines Primary Service Villages as having the highest level of services and facilities within the rural area to meet the day to day needs of residents including those from surrounding settlements.
13. I have been provided with information from all parties relating to service provision within the village. I have some sympathy with the view of residents, that even though Kings Sutton is a Primary Service Village, and has a rail station, the extent of local services is nonetheless relatively limited, and meets only some of the day to day needs of residents. I have also been provided with evidence comparing the services available in Kings Sutton with those of another Primary Service Centre – Middleton Cheney. The hierarchy is informed by an analysis of the relative attributes of all settlements in the district and in some cases these will have very different attributes which led them to be selected as higher order settlements. Nevertheless, as both have been allocated as Primary Service Centres in the adopted development plan they should be considered as settlements that are the most appropriate for accommodating local housing and employment needs.
14. I am mindful that Kings Sutton's status in the hierarchy is indicative of the relatively limited service provision in rural areas in the district, and that in turn Policies R1, SS1 and LH1 seek to achieve sustainable development not only through the hierarchy of settlements, but also the amount of development allocated to rural settlements as an amount of total development within the district. Accordingly, Kings Sutton and Middleton Cheney are both considered to be relatively sustainable locations when considered in the context of a limited proportion of planned rural growth.
15. In this regard I note that the supporting text to Policy LH1 sets out that development within rural areas had already met its planned requirement, set out in the JCS, by the time the LP Part 2 was adopted. Policy R1 is clear that once the housing requirement for rural areas has been met, further development outside settlement boundaries will only be permitted in a limited number of circumstances. Policy LH1 of the LP Part 2 expands on this by specifying what these circumstances are.
16. Therefore, in considering the suitability of the site for development, I take account of not only the position of Kings Sutton within the hierarchy, but also the other stated criteria in the Policy. The development would be located outside the settlement boundary. It is located adjacent to the village and so would have access to the available services within it. Nevertheless, this relative accessibility does not, to my mind, disapply the provisions of policies R1 or LH1 restricting development outside settlement boundaries with which, the parties agree the development would conflict. I return below to why I

consider that the site would not constitute an exception to this policy through providing environmental improvement.

17. It follows that on the first matter I find conflict with Policy R1 of the JCS and LH1 of the LP Part 1 which together seek to provide a sustainable pattern of development across the district.

Character and appearance

18. The site comprises an open field on the edge of the village. The field is currently in agricultural production and is edged on three sides of the boundary by mature hedgerow which includes some mature trees in native species. The southern edge of the site adjoins the established residential development of Blenheim Rise which forms the urban edge of the settlement. A public footpath, PRoW AS10 also runs along this southern boundary. The more recent residential development at The Rushes lies to the west of the site, offset to an extent by a semi-formal area of public open space and the established field boundary along the west of the site.
19. The site lies within the "Middleton Cheyney & Woodford Halse" Landscape Character Area (LCA 13a). I noted on site that although the site was relatively flat, the farmland to the north-east rose away from the site. The surrounding countryside was characterised by a rolling fieldscape with established hedgerows and pockets of woodland enclosing medium scale fields in arable use. This provided an attractive pastoral landscape which designation as the Aynho, Cherwell & Eydon, Special Landscape Area seeks to protect. I also noted that the established hedgerows provided a strong sense of enclosure and that the position of the site, in a low lying position adjacent to the built edge, reduced its prominence in wider views of the site from the north, east and west.
20. The degree to which the site is contained in the landscape means that development of the site is likely to have a limited effect on the character of the wider landscape. Views from the south and west are effectively screened by existing built form. In available medium and long-range views from the north and east the site forms part of the agricultural landscape around the settlement. Development would be seen against the backdrop of the existing settlement and provided the scale of buildings and palette of materials was in keeping with the vernacular, it would be largely indistinguishable from the existing settlement. In medium range views from the north and east field boundaries provide an effective separation of the site from the surrounding rising land, both containing built form and providing screening of the site. These factors limit the extent to which the proposal would impact upon the character of the wider landscape.
21. In more localised views the development would be more evident. However, even in these views the position of the site on the valley bottom surrounded by a strong field boundary limits the extent to which development of the site would be clearly evident. There would be clear views from properties that back on to the development along Blenheim Rise, where a small number of occupiers would have a direct view of the site. Views from the public footpath would also be fundamentally changed. In these views the visual impact on views would be severe during year one, with some scope for mitigation available through providing a planted buffer between the southern boundary and the footprint of any built development as shown on the indicative Framework Plan.

- Nevertheless, the rural experience currently enjoyed by adjoining residents and users of the stretch of footpath within the site would be lost. To a lesser extent there would also be clear views into the site from the entrance off Hampton Drive where the current experience of the rural fieldscape would be lost.
22. In views from properties facing the field boundary along Hampton Drive the loss of an open field would be evident, where built form would be visible through the hedgerow. In views back from the public footpath to the north-east of the site the development would also be visible, although once established it would be perceived as part of the settlement and this would reduce the extent to which it would be perceived as visually intrusive.
23. I take into account the Council's view, that the proposed development, due to its layout and the position of the site, would be poorly related to the settlement. I do not consider that this would be the case. The position of the existing open space does not appear to me to be an impediment to integrating the site into the wider suburban fabric. It is not so extensive that it would be perceived as an incongruous gap between areas of built form. Likewise, any buffer to the south does not appear to me to be likely to be so extensive as to fail to integrate with the existing urban grain. Furthermore, the extent of development proposed provides scope to buffer the northern edge of the development and to provide extensive boundary planting. Accordingly, I do not share the Council's view that the proposal would lead to loss of open space which is of particular significance to the form and character of the village.
24. On balance, I am of the view that the proposed development would not be harmful to the character of the wider landscape. I therefore find no conflict with Policy NE2 of the LP Part 2 which seeks to ensure that within Special Landscape Areas development related to unallocated site and sites outside of settlement confines should avoid harmful impacts to the character and appearance of the area.
25. I recognise that the replacement of a portion of attractive agricultural land with built form, even when well-integrated, will to some degree have a harmful localised visual impact. Taking into account the relatively limited views of the development, and the extent to which visual harm could be mitigated over time by landscaping and sensitive layout, I am of the view that only very limited visual harm would arise. On balance, development could be well integrated with existing built form and the character of the village would not be harmed. In this regard I find no conflict with policies R1 and S10 of the JCS or SS2 (1a and 1b) of the LP Part 2 in relation to the visual effects of development.

The impacts of the proposal on archaeology on site

26. The Council's third reason for refusal related to the potential impact of the proposal on archaeology within the site. The Northamptonshire Historic Environment Record (HER) records evidence of Iron Age occupation, Roman activity and Medieval and Postmedieval occupation in the landscape around the modern settlement. Extensive Iron Age settlement remains were excavated on land north of Hampton Drive in 2012 and the remains recorded on that site show evidence of the potential to extend into the present site. After the refusal of the application the appellant submitted a geo-technical survey which found that the site, particularly the north-eastern corner, showed evidence of sub-surface structures which maybe of archaeological interest.

27. The Council's archaeologist has advised that trial trenching would ideally be carried out as a next step, preferably before permission is granted, in order for any findings to inform the final layout of the site. Guidance¹ indicates that in-situ preservation of any remains is generally the preferred form of archaeological mitigation, although other forms of mitigation may be appropriate. Importantly, necessary information should be provided before permission is granted to ensure that the significance of any archaeological assets is determined and accordingly, the most appropriate form of mitigation can be decided.
28. In this case, the geo-technical survey has provided an indication of the most likely form and position of any remains within the site. Trial trenching before permission would be ideal, as it would provide information to assess how significant any remains might be. Nevertheless, although the scheme is in outline form, the amount of development proposed, and the indicative layout indicates that there is some broad scope for leaving the north-eastern corner of the site undeveloped. This would, if necessary, facilitate preservation in situ, if further archaeological assessment indicated that this was necessary. In short, there remains scope for the findings of further assessment to inform the final layout. Without further assessment we cannot know if the indicative layout might need to be altered, but the extent of built form proposed indicates that the presence of significant remains need not be an impediment to development. I note that the Council's archaeologist has recommended a condition to this end.
29. I am therefore satisfied that subject to conditions requiring further archaeological assessment prior to the submission of reserved matters, the proposal would preserve the significance of non-designated heritage assets in a manner appropriate to their significance. In this regard I find no conflict with Policies BN5 of the JCS, HE1 and HE2 of the LP Part 2 or with the Framework which has similar aims.

Provision of infrastructure

30. The Council confirmed at hearing that they were satisfied that if implemented the agreement would ensure adequate provision for infrastructure to serve the needs of future residents. As a result, the Council were no longer defending the fourth reason for refusal.
31. I am also satisfied that the provisions outlined in the agreement are necessary to meet the reasonable needs of the development, including additional provision for education, and so would be in compliance with Policy INF1 of the JCS and INF1 of the LP Part 2.
32. Nevertheless, as these provisions are required to mitigate the impacts of development, they are a neutral factor in the planning balance.

Other Matters

Flooding

33. The site is subject to surface water flooding. A ditch network on the site collects run-off from a wide area of farmland above and around the site. In the south-eastern corner of the site flows are directed via a part-piped, part-open

¹ Planning and Archaeology - Historic England Advice Note 17 (HEAN 17)

channel known as Hampton Drive Watercourse which flows towards the south-west corner of the site. From here, some flows drain to a culvert under Hampton Drive, and some are directed into a part-piped part-open channel through the adjoining Rushes development. Flows routed through The Rushes flow through a new pond within the development, which also serves the surface water drainage system of the development, and subsequently into Banbury Lane Watercourse to the north via a concrete headwall with flood gate.

34. The proposal is supported by a Flood Risk Assessment (FRA). Properties around the site on Hampton Drive and Windsor Close have been subject to historic surface water flooding and the FRA indicates that this likely to have arisen because the Hampton Drive Culvert does not have sufficient capacity to accommodate surface flows from the site.
35. The FRA seeks to both mitigate against surface water flooding in relation to the proposed development but also seeks to secure off-site improvements in terms of flood risk by reducing flood flows from the site. The strategy involves splitting flows between the Hampton Drive Culvert and Banbury Lane Watercourse and using a flow control device to divert a proportion of upstream flood flows around the development site via a part-piped part-open swale route which would discharge into a flood mitigation pond along the northern site boundary. It would also involve the replacement of the culverted section of the Hampton Drive Watercourse along the southern boundary of the site, with a new single, larger diameter pipe and provision of a shallow overflow ditch directly above this new culvert along the southern boundary.
36. This would result in the removal of a proportion of flows from the Hampton Drive Culvert and reduction in the flow rate through the Rushes. I have reviewed the FRA and taking into account the size of the site and the amount of development proposed, I am satisfied that there is enough capacity within the site to facilitate a scheme which could attenuate flows from the site to existing green field rates. I am also satisfied that the FRA demonstrates that, subject to further details secured by condition on-site attenuation could be accommodated within the scheme which would render it safe for its lifetime and would not increase flood risk elsewhere. In this regard the scheme would comply with local and national policy which reflect these aims.
37. The FRA also states that the scheme as proposed would reduce flood flows from the site which would result in betterment through a reduction of flood risk to the surrounding area. This would be achieved partly through the proportion of the site given over to attenuation. As the proposal is an outline scheme the submission makes a number of assumptions, including the proportion of impermeable surfacing within the site and a proportional allowance for urban creep which could be subject to change in a detailed scheme. Furthermore, the Lead Local Flood Authority have indicated that they have no objection to the scheme, subject to the provision of a detailed design for the surface water drainage scheme. This is prudent, given that detailed layout is not part of this application, and whilst the FRA is based on the submitted Framework Plan, this may be subject to some refinement at reserved matters, particularly in relation to potential archaeological constraints in the north-eastern corner of the site.
38. Without detailed calculations based on proposed layouts, the FRA at this stage can only estimate the extent of any betterment that the development would achieve. With this in mind, taking into account the likely greater land take from

the attenuation needed to achieve a reduction in flood flows, I am less assured of the capacity of the site to both accommodate the development and also achieve significant betterment. I am therefore unable to accurately determine the level of flood protection that would be provided to nearby homes or to accurately attribute the level of benefit, if any, that may arise from it.

39. At the hearing we discussed whether a scheme for the reduction in flood risk could be considered an environmental improvement as identified within policy R1 of the JCS. I see no reason why in principle it would not, but I'm conscious that any such improvements would need to be demonstrable and quantifiable, so as to represent a genuine improvement capable of justifying an exception where development would not otherwise be granted. In light of my reservations above, I cannot conclude that in this case the proposal would involve environmental improvement² capable of overcoming the identified conflict with Policy R1 of the JCS and LH1 of the LP Part 2.

Highways

40. I note the concerns of residents in relation to highway safety and the effects of additional traffic from the development on the highway network within the village. I noted on site that the village had narrow streets with large amounts of on-street parking which slow vehicular movement through the village. Nevertheless, I have no material evidence that the level of additional vehicles that would arise from the development would have a significant effect on existing road conditions and I note that the Local Highways Authority have raised no objection in this regard.
41. I note concerns from the Highway Authority and local residents regarding the need for a footpath on the northern side of the proposed access to link to the adjoining public open space. Access is currently available across the front of the site via a wide grass verge and a paved footpath is available on the opposite side of Hampton Drive. The road is not busy, serving a limited number of vehicles within The Rushes. Given the proximity of the public open space and the potential for pedestrian linkages from within the development site, I do not consider the absence of a footpath north of the site to be likely to lead to harm to pedestrians. Therefore, in summary, I do not consider that the proposal would lead to any material harm to highway safety.

Affordable Housing

42. The scheme would provide 50% affordable housing secured through a legal agreement. This would comply with the requirements of LH8 of the LP Part 2, which requires 50% provision of affordable housing in rural areas.
43. I have been provided with supporting information outlining the extent of undersupply of affordable housing in the district and the extent of local need. Although the parties dispute some of the details in the appellant's report, it is nonetheless clear that a substantial need for affordable housing exists in the district.
44. Given the impetus in the Framework to boost the supply of all types of housing nationally, and the identified need for affordable housing, both within the village and across the district, I attribute significant weight to the benefit

² Set out in part i) to policy R1

derived from the provision of housing, including affordable housing, in this case.

Other Matters

45. I note the concerns of residents adjoining the development in relation to potential impacts on residential amenity. However, I am satisfied that adequate separation distances, that would ensure the living conditions of existing residents were not be materially impacted, could be provided as part of the layout to be approved as a reserve matter.
46. The Council's Ecology Officer has confirmed that subject to relevant conditions, the development would not give rise to harm to protected species in or around the site. I have no substantive evidence before me to conclude otherwise. Furthermore, the proposal would provide a 12.92% net gain in biodiversity on the site. This marginally exceeds the requirements of local and soon to be enacted national policy. Commensurate with the size of the site I attribute this some limited positive weight as a benefit of the scheme.
47. The site is currently being farmed and so development would lead to its loss from agricultural use. The site is around two and a half hectares in size. I have not been advised of the classification of the land, but as it is planted to wheat this suggests it is likely to be higher grade. I have no evidence that its loss from production would compromise the integrity of the agricultural holding and even if I were to consider the land to be Best and Most Versatile Land for agriculture, its size indicates that any harm from its loss would be very limited.
48. The scheme would include the provision of an area of public open space within the development, although as the application is in outline form, I have no firm indication of the extent of this space. The appellant is of the view that this should be considered a benefit of the scheme. Whilst it is true that any space provided would be usable by existing residents of the village, I have been provided with no firm evidence that public open space is currently deficient in the area. I therefore attribute this matter no more than limited positive weight in the planning balance.
49. The proposal would provide economic benefits, both during construction and through sustaining local services and facilities in the village. I attribute these benefits no more than moderate weight in favour of the proposal. The appellant also argues that Council Tax receipts generated by the new households could potentially be used to improve local infrastructure, although these would be very limited and difficult to qualify so this does not lead me to attribute any more weight to the matter.

The Planning Balance

50. The proposal would conflict with Policies R1 of the JCS and LH1 of the LP Part 2 which seek to achieve a sustainable pattern of development across the district.
51. In respect of archaeology, I have found no conflict with Policies BN5 of the JCS HE1 and HE2 of the LP Part 2. Neither have I found any conflict with Policy INF1 of the JCS and INF1 of the LP Part 2 in relation to infrastructure needs arising from the development. I also find no conflict with R1 and S10 of the JCS or SS2 (1a and 1b) of the LP Part 2 in relation to the visual effects of development.

52. Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that applications should be determined in accordance with the provisions of the Development Plan unless other material considerations indicate otherwise. I have considered whether the benefits of the scheme are sufficient to outweigh the identified conflict with the development plan in this case.
53. I attribute significant weight to the provision of housing, including the 16 dwellings which would be affordable. I also attribute some further weight to the other identified benefits of the scheme including the economic benefits, biodiversity net gain and the provision of open space.
54. It has been put to me that the conflict with the development plan should be considered in the context of the site's location within a Primary Service Village which is considered to be a sustainable location. However, I am mindful that Policies R1 and LH1 seek to direct both the location and amount of development across the district in order to achieve sustainable development. Even though the effect of their application on a case-by-case basis will be incremental, this does not diminish their importance. The development plan is up-to-date and these policies carry full weight. I recognise that the five-year supply figure is not a cap to development. Nevertheless, in the context of a 6.9 year supply of housing land, I am not persuaded that in this case the collective benefits of the scheme justify determining the proposal otherwise than in accordance with the development plan taken as a whole.

Conclusion

55. Accordingly, for the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steve Kerry	Associate Planning Director – Rectory Homes BSC (Hons) MPlan MRTPI
Steve Ford	Director Thames Valley Archaeological Services BA PhD MCIfA FSA
Phil Jones	Head of Planning South West Turley Associates BSc (Hons) MSc MRTPI
James Morton	Associate Landscape Architect Aspect Landscape Planning BA (Hons) MA LA CMLI
James Stacey	Managing Director Tetlow King BA (Hons) Dip TP MRTPI

FOR THE LOCAL PLANNING AUTHORITY

James Paterson	Principal Planner WNC MSc MRTPI
Chris Burton	Principal Planner WNC MRTPI
Dr Rachel Townend	Assistant Archaeological Advisor NNC BSc MA PhD

INTERESTED PARTIES:

Mr Harper	Landowner
Mr Wood	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Appeal Decision APP/W2845/W/22/3307647
2. West Northamptonshire Council – Delegated Report for Section 106 Agreement dated 8th June 2023
3. Planning and Archaeology - Historic England Advice Note 17 (HEAN 17)
4. Email trail 4th May to 26 July 2023 relating to Education Contribution – James Paterson WNC and Stacey Wylie WNC
5. Developer Contributions Supplementary Planning Document 2010
6. Planning the Future of Open Space in South Northamptonshire 2017

End of Documents List