



Appeal Decision

Site visit made on 10 June 2025

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th July 2025

Appeal Ref: APP/A2470/W/24/3351947

Land to the north of Main Street, Market Overton

Grid Reference Easting 489106, Grid Reference Northing 316359

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Margaret White against the decision of Rutland County Council.
 - The application Ref is 2022/1193/MAO.
 - The development proposed was originally described as outline planning application for up to 27 dwellings, accessed via Main Street.
-

Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for up to 27 no. dwellings with all matters reserved except access; to be accessed from the Main Street at Land to the north of Main Street, Market Overton, Grid Reference Easting 489106, Grid Reference Northing 316359 in accordance with the terms of the application, Ref 2022/1193/MAO, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the appeal site address in the heading and formal decision above from the appeal form as this is a more precise reflection of the site location. In addition, the description of development in the formal decision has been taken from the appeal form and decision notice. This is because it is a more accurate reflection of the development for which permission is sought.
3. The application was submitted in outline with all matters reserved for future consideration except for means of access. Appearance, landscaping, layout, and scale are reserved matters for future approval. I will proceed on the basis that details shown on the submitted drawings in respect of matters that are reserved for future approval are for illustrative purposes only.
4. The main parties were given the opportunity to comment on the schedule of conditions. In reaching my Decision, I have taken into account their comments.

Background and Main Issues

5. The planning application was originally refused for two reasons. The Council has confirmed that they no longer wish to defend the appeal as Rutland's 5-year housing land supply is no longer in excess of the five-year requirement due to the revised National Planning Policy Framework (the Framework). The appellant has also provided a completed s106 agreement with the appeal.

6. Notwithstanding the Council no longer wishes to defend the appeal, the main issues are:
- Whether the proposal would be suitably located having regard to relevant development plan policies concerning housing in the countryside; and
 - Whether the proposal provides an adequate s106 agreement.

Reasons

Location

7. The appeal site comprises a field with an existing access onto Main Street. It is adjacent to the boundary of the settlement of Market Overton. Towards the north, south and west is residential development, and to the east is a belt of trees and The Lodge Trust complex of buildings.
8. Policy CS4 of the Rutland Local Development Framework: Core Strategy Development Plan Document (2011) (CS) states that development in the Countryside will be strictly limited to that which has an essential need to be located in the countryside and will be restricted to particular types of development to support the rural economy and meet affordable housing needs. Policy SP6 of the Rutland Local Plan: Site Allocations and Policies Development Plan Document (2014) (DPD) sets out circumstances where new housing would be acceptable in the countryside.
9. Market Overton is identified as a Local Service Centre within the development plan. The local service centres are the focus for small scale level of development outside the two towns reflecting the range of facilities and access to public transport available and their role as serving surrounding minor settlements. Small scale development for unallocated sites is defined as being up to 9 dwellings, provided that proposals of this scale can be sensitively developed within Local Service Centres. Given the number of dwellings proposed, the development cannot be described as small scale development.
10. Given the size of Market Overton, there are limited services and facilities (which include a shop, village hall, public house, and doctor's surgery) within walking distance of the site. There is also no detailed information before me regarding public transport options. Thus, based on the evidence before me, it is likely future residents would be reliant on a vehicle to meet their everyday needs.
11. The proposed development does not meet the criteria contained within Policy CS4 of the CS and Policy SP6 of the DPD, and this is not disputed by the main parties. Therefore, the proposal would not be suitably located having regard to relevant development plan policies concerning housing in the countryside.
12. The officer's report states that the development would be contrary to the provisions of the Market Overton Neighbourhood Plan 2018-2036 (2022) (NP). However, it does not specify in relation to which policy, and this is not included within the reasons for refusal. Based on the evidence provided and having regard to the outline nature of the proposal, the proposed development would not conflict with the NP policies.

s106

13. A completed s106 agreement has been provided which makes provision for a number of obligations. The s106 would secure affordable housing of at least 30% of the development, open space provision and tree contribution.
14. The reason for refusal referred to Biodiversity Net Gain. The Council has confirmed that they have reviewed this position and the application pre-dates mandatory Biodiversity Net Gain and is therefore considered exempt.
15. The Council has worked with the appellant to agree the text of the s106 document. Based on the evidence before me, I am satisfied that the signed legal agreement, submitted with the appeal meets the relevant tests¹. For these reasons, the proposal provides an adequate s106 agreement.

Other Matters

Housing Land Supply

16. As stated above, the Council no longer wishes to defend the appeal as Rutland's 5-year housing land supply is no longer in excess of the five-year requirement due to the revised Framework. Thus, the main parties now agree that the Council is unable to demonstrate a 5-year supply of deliverable housing sites.
17. Both main parties have highlighted a number of appeal decisions in relation to the Council's five-year housing land supply. However, the Council's position on this has significantly altered since the revised Framework so these appeal decisions cannot be compared to the case before me.
18. The proposal before me would result in the provision of up to 27 dwellings. The appellant states that the best-case scenario is that the Council can demonstrate a housing supply of 2.96 years. The Council has not disputed this figure. Based on the evidence before me, I give significant weight to this benefit.

Other Benefits

19. The development would provide economic benefits, including the creation of direct and indirect jobs as a result of the construction of the site, ongoing maintenance and increased local household spending. The proposal would also provide affordable housing and open space provision which would be secured as part of the s106 Agreement. In addition, the development would provide a tree contribution. I give moderate weight to the economic, social and environmental benefits of the scheme.

Emerging Local Plan

20. The site was indicated as a preferred location for allocation within the Draft Local Plan. I understand that the draft Regulation 19 Plan removes this allocation, albeit extends the proposed Planned Limits of Development to include the entirety of the appeal site. The plan is still at an early stage and therefore I give this very limited weight to this consideration.

¹ Set out in Regulation 122(2) of the CIL Regulations 2010 and Paragraph 58 of the Framework

Other Matters Raised by Interested Parties

21. In addition to matters addressed above, I have considered the objection comments which relate to an extensive range of matters.
22. Concerns have been raised with the provisional layout. Being an outline application, details of the appearance, landscaping, layout, and scale of the development would be considered at reserved matters stage. Taking into account the overall proposed density of the site, I am satisfied that the proposed development can be accommodated at the site which would provide acceptable living conditions for future and existing occupants, would provide an appropriate mix of housing, and would not be overdevelopment of the site.
23. The Lodge Trust (towards the east of the site) provides care for adults with learning disabilities. I understand that some of their oldest residents, with the greatest needs, live closest to the proposed development. Concern has been raised with the wellbeing and health and safety of the residents of the boundary treatment, during the construction and afterwards. I have had due regard to the Public Sector Equality Duty set out under the Equality Act 2010, and Article 8 of the Human Rights Act 1998. There is a reasonable distance between the appeal site and the buildings at The Lodge Trust. Furthermore, as the proposal is in outline, further details would be considered at reserved matters stage, including landscaping and layout. Planning conditions can also be attached which would address the concerns highlighted.
24. Concern has been raised in relation to the scale of the proposed development and its impact on traffic, local services (including doctor's, dentist and school provision) and infrastructure (including electricity, water and sewage services), noise, and pollution. Taking into account the evidence before me, I am satisfied that the development would not have an unacceptable impact on traffic, local services, infrastructure, noise and pollution and would not result in an unacceptable increase in emissions. Subject to conditions, and further information being provided at reserved matters stage, the proposal would have an acceptable effect on trees, highway safety, flood risk, drainage and noise.
25. The matters relating to the viability of the development, future subsidence claims are not matters, in this case, that would justify withholding planning permission.
26. The Council did not refuse the planning application on the concerns raised within the other matters. Subject to appropriate planning conditions, there is no credible evidence before me that would lead me to an alternative conclusion to the Council on the other matters raised, or that could justify the dismissal of the appeal on these grounds. Furthermore, the identified benefits weigh in favour of the proposed development.

Planning Balance

27. As set out above, I have found that the proposed development would be contrary to Policy CS4 of the CS and Policy SP6 of the DPD and therefore the proposal would not be suitably located having regard to relevant development plan policies concerning housing in the countryside. Thus, the proposed development would conflict with the development plan as a whole. In the absence of a five year supply of housing land, paragraph Framework 11d) is engaged.

28. As an adverse impact, the proposal would be at odds with the spatial strategy for housing set out in the development plan. The development plan supports small scale level of development in Local Service Centres. The site is adjacent to the boundary of the settlement of Market Overton. It has a close relationship to the built form of Market Overton and the development would be well-related to the settlement.
29. The proposal would provide up to 27 dwellings in an area that is falling well short of the level of housing supply required by national policy. I give significant weight to this benefit. Furthermore, I give moderate weight to the economic, social and environmental benefits of the scheme. As set out above, I also give very limited weight to the emerging local plan. It is also worth noting that the Council no longer wishes to defend the appeal.
30. On balance, having taken all matters into consideration, the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The proposal therefore benefits from the presumption in favour of sustainable development.
31. Whilst I find conflicts in relation to Policy CS4 of the CS and Policy SP6 of the DPD, the harm arising in those regards would be outweighed by other material considerations. Accordingly, the material considerations in this instance would be of sufficient weight to indicate that the decision should be made other than in accordance with the development plan.
32. I am satisfied that a grant of outline planning permission would not unacceptably interfere with the occupiers of The Lodge Trust right to a private and family life and home. It is proportionate in the circumstances to allow the appeal.

Conditions

33. I have assessed the Council's suggested conditions, and taken into account those suggested in consultation responses. In light of guidance found in the Planning Practice Guidance, where necessary I have amended the wording in the interests of clarity, precision, conciseness or enforceability.
34. In addition to the standard implementation condition, a condition specifying the reserved matters is required to provide certainty regarding the timescales for the implementation of the development and to provide clarification regarding the scope of future reserved matters applications. It is necessary to attach a condition specifying the approved plans as this provides certainty.
35. In the interest of highway safety, the living conditions of nearby occupiers, and to ensure adequate drainage, a condition relating to a construction method statement is necessary. Conditions relating to surface treatment, surface water and external lighting are necessary in the interest of highway safety.
36. In order to ensure that contamination of the site does not pose a risk to future users of the proposed development, a condition relating to contamination is necessary. Conditions relating to drainage are necessary in the interest of satisfactory drainage; and to ensure that flood risk is not increased.

37. To preserve and protect existing trees, protect the character and appearance of the area, and protect the living conditions of nearby occupiers (including occupiers of The Lodge Trust), conditions relating to trees are necessary. Furthermore, to ensure new trees are appropriate and satisfactorily planted, a condition relating to new trees is necessary. To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area, a landscape management plan condition is necessary.
38. To ensure that any archaeological interest is recorded or safeguarded, a condition relating to archaeology is necessary. To ensure that the development accords with Policy SP19 of the DPD, and to protect reptiles, conditions relating to the Addendum Ecological Appraisal and Reptile Survey are necessary.
39. I have not included the condition relating to a pre-condition highway survey as it would not meet the six tests set out in the Framework and the PPG states that a condition should not be used to require the payment of money.

Conclusion

40. The appeal scheme would conflict with the development plan taken as a whole. However, in this instance material considerations indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal succeeds.

L Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing, by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be limited to no more than 27 dwellings and shall be carried out in accordance with the following approved plans:
 - 1337/02 Revision A (Location Plan); and
 - AMA/21333/SK003 (Proposed Site Access).
- 5) The details to be submitted to the local planning authority for approval as part of the reserved matters shall include details of any external lighting (other than domestic lighting within an approved dwelling curtilage). The external lighting shall be implemented as approved, and shall be retained thereafter.
- 6) No development shall take place until the potential risk of land contamination been assessed with respect to the proposed development using the conceptual model. This is to be submitted to, and approved in writing by, the local planning authority. If a potential risk exists, a site investigation determining the nature and extent of contamination shall be carried out in accordance with a methodology which has previously been submitted to, and approved in writing by, the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to, and approved in writing by, the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to, and approved in writing by, the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;

- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. wheel washing facilities;
- v. measures to control the emission of dust and dirt during construction;
- vi. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- vii. delivery, demolition and construction working hours; and
- viii. measures for the control of surface water drainage during the construction stage of the development.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) Prior to the commencement of the development hereby permitted, an Arboricultural Impact Assessment and a Tree Protection Plan prepared by a suitably qualified Arboriculturalist, shall be submitted to, and approved in writing by, the local planning authority. The works shall thereafter be carried out in accordance with the approved Arboricultural Impact Assessment and Tree Protection Plan and BS 3998:2010 Recommendations for Tree Work. The relevant tree protection measures shall be installed prior to the commencement of demolition and construction works and retained for the duration of construction works.
- 9) No works or development shall commence until a full specification of all proposed tree planting has been submitted to, and approved in writing by, the local planning authority. The specification shall include the quantity, size, species, and positions or density of all trees to be planted, how they will be planted and protected and the proposed time of planting. The tree planting shall be carried out in accordance with the approved specification.
- 10) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to, and approved in writing by, the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- [In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 11) No drainage works shall commence until a surface water management strategy has been submitted to, and approved in writing by, the local planning authority. No hard-standing areas shall be constructed until the works have been carried out in accordance with the surface water strategy. The development shall be carried out in accordance with the approved strategy.
- 12) No development shall take place until a scheme for on-site foul water drainage works, including connection point and discharge rate to the public network, have been submitted to, and approved in writing by, the local planning authority. The

foul drainage works shall then be installed in accordance with the approved details prior to first occupation and shall be retained thereafter.

- 13) The first 5 metres of the vehicular access serving the site shall be constructed using a bound, porous material.
- 14) The carriageways of the estate roads shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.
- 15) Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to, and approved in writing by, the local planning authority. The landscape management plan shall be carried out as approved.
- 16) The development shall be carried out in accordance with the recommendations set out in sections 6 and 7 of the Addendum Ecological Appraisal (Produced by Allied Ecology, reference 23125, dated November 2024).
- 17) The development shall be carried out in accordance with the recommendations set out in the Reptile Survey (Produced by Arbtech). Prior to the commencement of the development hereby permitted, a reptile mitigation, compensation and enhancement strategy shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved strategy.
- 18) Any historic or archaeological features not previously identified in the Archaeological Evaluation (Produced by Wessex Archaeology, dated July 2023) which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the local planning authority in writing within two working days of them being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to, and approved in writing by, the local planning authority.