



Appeal Decision

Hearing held on 16 June 2026

Site visit made on 16 June 2026

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2026

Appeal Ref: APP/M2840/W/25/3375763

Mill Marina, Midland Road, Thrapston, Northamptonshire NN14 4JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Dax Byrne (Springbirch Developments) against the decision of North Northamptonshire Council.
 - The application reference is NE/23/01204/FUL.
 - The development proposed is redevelopment of site to form 14 dwellings with associated car parking and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs has been made by Mr Dax Byrne (Springbirch Developments) against North Northamptonshire Council. An application has also been made by North Northamptonshire Council against Mr Dax Byrne (Springbirch Developments). These are the subject of separate decisions.

Preliminary Matters

3. The Council's decision notice listed seven reasons for refusal. Subsequently, the appellant has provided evidence in respect of great crested newts, which the Council considers has addressed the matter. Therefore, it is no longer contesting the sixth reason for refusal, and I do not address this as a main issue.
4. The Council has also confirmed that references in the first reason for refusal to a lack of affordable housing, and in the fourth reason to a requirement for 43 parking spaces and inclusion of tandem spaces, are erroneous. I was able to clarify these points at the hearing and they do not form part of my reasoning.
5. The evidence before me includes various references to housing being restricted to residents over 55 years of age, which I understand formed part of an earlier application on the site. However, the appellant's statement of case makes clear that the proposal in this instance is for market housing.

Main Issues

6. The main issues are:
 - The effect on the character and appearance of the area;
 - Whether a suitable housing mix would be provided;

- Whether the proposal would be acceptable with respect to flood risk;
- The effect of the proposal on neighbours' living conditions;
- Whether a suitable standard of accommodation would be provided;
- The provision of parking and the effect on highway safety;
- The effect on the integrity of the Upper Nene Valley Gravel Pits Special Protection Area;
- Whether if necessary, satisfactory provision is made to mitigate the impact of the proposed development on local infrastructure.

Reasons

Character and Appearance

7. The appeal site is a parcel of land on the western side of Midland Road to the southwestern side of Thrapston. It was formerly in use as a marina, but I was told it has been vacant since 2000, except for ad hoc storage use. The site is overgrown with a small outbuilding, surviving brick chimney stack and shipping container. Mature trees stand to the front of the site by the roadside. The site slopes down in level from the front before flattening towards the rear, where it backs onto a tributary to the River Nene, with access across via a small bridge.
8. To the immediate north is 58 Midland Road, a three storey residential building divided into flats. The property has a deep back garden running alongside the appeal site. Another large, detached dwelling, No 56, stands beyond No 58. To the south is a single storey commercial premises with a number of outbuildings extending deep into the site and separated from the appeal site by a high boundary wall. A small group of cottages stands beyond. A mix of detached, semi-detached and terraced housing lines the opposite side of Midland Road, generally standing above the level of the road at two to three storeys.
9. The cluster of buildings around the appeal site represents a small pocket of development to the western side of Midland Road that is otherwise open and undeveloped until reaching housing on Osier Way around 150m to the north. The surrounding land forms part of the riverscape, although pockets of woodland to the rear help to enclose the appeal site from the wider countryside. The scale of the buildings to each side is such that this cluster reads as part of the streetscene and not as wholly isolated structures. In this context, there is scope to accommodate a suitable residential development on the appeal site.
10. The proposed building would sit back from the road by some 17.5m, with a width of approximately 31.4m and a depth of 16.9m. It would have three storeys of accommodation, though the sloping levels of the site mean it would stand one storey taller at the rear, where an undercroft parking area is proposed on the lowest level. It would feature a prominent hipped roof with grey slate tiles, front dormer windows and three full height rear gables. The façades would be a combination of red and buff rustic brick.
11. The massing of the building would be substantial, much greater than neighbouring dwellings and exacerbated by the dominant height and expanse of the hipped roof,

a shape which does not prevail within the immediate area and which would significantly exceed the height of No 58 next door.

12. Indeed, the proposal would starkly contrast with No 58, which has a shallow, proportionate roof form above an ordered, symmetrical front elevation that contributes positively to the streetscene. Instead, the proposed building would have a relatively low eaves height and the front elevation would occupy a slightly sunken position relative to the road. This would exacerbate the visual dominance of the roof and leave the front façade appearing compressed and lacking presence in the streetscene.
13. The broad footprint of the building, spanning the width of the site except for the side access, would also create a horizontal emphasis at odds with the verticality of No 58 and dwellings opposite. Although there would be a small step in the façade and the roof, this would not be sufficient to break up the monolithic massing of the building. The composition of the front façade would be further undermined by the fenestration, in particular the use of narrow slot windows, the lack of alignment between the façade windows and the dormers above, and a front entrance door significantly undersized for a building of this scale.
14. The rear of the building would incorporate a more ordered design, with verticality expressed through the gables and the roof more proportionate to the overall height of the building. The undercroft parking would expose the lowest floor to view and create a sense of the building ‘floating’ above the ground, but this element of the building would not be visible from public vantage points or prominent from the neighbouring rear garden. However, the rear of the site would be given over predominantly to additional parking for residents and visitors. This would result in an active, multi-user space dominated by car parking and lacking the tranquillity and natural character which exists along the riverscape. A proposed communal garden space to the side of the car parking would be significantly smaller in size and located in a confined position against the tall side boundary wall where it would lack utility and offer insufficient green space to integrate the site into its surroundings, particularly with respect to the verdant river environment.
15. The proposal also includes provision of a brick bin store within the front garden. Although shown to be screened by proposed hedging, it would form a conspicuous and discordant feature that would add to the incongruity of the overall design.
16. In reaching a view, I have taken into consideration other development nearby. I acknowledge the terraced dwellings at the roundabout to the south located above a tall retaining wall, but whilst this is a significant, cumulative scale of development, the smaller, individual scale of each dwelling is legible and serves to break up the massing in a rhythmic manner. The dwellings to the north on Osier Way, Sedge Close and Midland Road itself include taller, three storey dwellings, some with undercroft parking, but they form part of a planned estate with varied dwelling sizes that again breaks up the perceived scale and massing. Those along Midland Road also form part of a continuous urban corridor on both sides of the road, where there is not a strong visual influence from the surrounding countryside. Ultimately, these examples differ in form and context from that before me, and they do not alter my considerations of the proposal.
17. I am also aware that permission has previously been granted for residential development on the site, including a flatted building in 2006 which was an evolution

of a design allowed on appeal in 2005. I acknowledge the view taken at the time that the surrounding area included a mixed urban grain, and that the approved building shows some similarity to that now proposed. However, these decisions are some 20 years old, and considered under a different policy context and site circumstances. I am also aware that more recent proposals have been refused permission. These earlier permissions remain material considerations, and the principle of residential development is not a point of dispute, but I must judge the proposal on its own merits and in light of the prevailing policy context and guidance, including the aims of the National Planning Policy Framework (the Framework) to achieve high quality design, which I find the proposal would not meet.

18. For these reasons, I conclude that the proposal would cause significant harm to the character and appearance of the area, in conflict with Policies 3 and 8 of the North Northamptonshire Joint Core Strategy (2016) (the JCS) which together seek high quality design that responds to the site's immediate and wider context, local character and landscape. The Council also cites conflict with Policy EN1 of the East Northamptonshire Local Plan Part 2 (2023) (the LPP2), but this is concerned with the spatial location of development rather than character and appearance.

Housing Mix

19. The proposal would provide for four one-bedroom units and ten two-bedroom units. The Council is critical of the mix, pointing to Policy 30 of the JCS which requires that the mix of housing types should reflect i) the need to accommodate smaller households with an emphasis on the provision of small and medium sized dwellings (1-3 bedrooms) including, where appropriate, dwellings designed for older people; and ii) the existing housing stock within the settlement or neighbourhood/ward in order to address any gaps in provision and to avoid an over-concentration of a single type of housing where this would adversely affect the character or infrastructure.
20. The evidence includes reference to the Council's latest Strategic Housing Market Assessment (SHMA), which points to a predominant need for smaller units of 1 to 2 bedrooms. In this respect, the proposal would help address this need and accord with the first part of Policy 30.
21. However, the Council argues that the SHMA is strategic in its focus, and that the second part of the policy is not met as it has not been demonstrated that the proposed mix would reflect existing housing stock at the local level, meet gaps in provision and avoid an overconcentration. At the hearing, the Council suggested a market survey or similar should be conducted, though this is not set out as a stipulation in Policy 30 or other guidance referred to me. Neither has the Council offered any evidence to suggest that the proposed mix, which would accord with the district wide need identified in the SHMA, would be wholly out of step with the need in Thrapston.
22. The Council also refers to Paragraph 82 of the Framework requiring decisions in rural areas to be responsive to local circumstances and support housing developments that reflect local needs. However, Thrapston is not a rural area, but is designated as a market town under the JCS where residential development is supported. The proposal would also deliver a modest number of units relative to the size of Thrapston which would not disproportionately alter the overall balance of housing sizes in the town or lead to an overconcentration of smaller units.

23. Ultimately, the proposed mix is responsive to the need for smaller units set out in the SHMA, and I have no substantive evidence that this would be harmful to the mix of housing provided in Thrapston. Therefore, I find no conflict with Policy 30.

Flood Risk

24. The application site is adjacent to the River Nene and lies within Flood Zones (FZ) 1, 2 and 3. The highest part of the site, to the front, lies in FZ1. The proposed building would stand within FZ2 and FZ3a and the rear part, including parts of the communal garden and external parking would lie within FZ3b.
25. Policy 5 of the JCS sets out that development should contribute towards reducing the risk of flooding and to the protection and improvement of the quality of the water environment and should, wherever possible, be avoided in high and medium flood risk areas through the application of a sequential approach considering all forms of flooding for the identification of sites and also the layout of development within site boundaries.
26. This approach echoes that of the Framework and the Planning Practice Guidance (PPG), which require a sequential, risk based approach to the location of development in terms of flood risk, in order to steer new development to areas with the lowest probability of flooding. The PPG states that, for the purposes of applying the Framework, the 'areas at risk of flooding' are principally land within FZ2 and FZ3. Dwellings are categorised as 'more vulnerable' development, for which an exception test is required to be passed in addition to the sequential test in FZ3a.
27. The appellant has undertaken a sequential test. The Council concurs with the search area considered, but considers other parameters too restrictive, namely the choice to rule out sites which exceed the size of the site and/or the proposed number of units by plus or minus 20%. The appellant points to the requirement of the Framework to take a 'pragmatic' approach to the availability of alternative sites. In doing so, the appellant sets out in their sequential test that a site can only be considered reasonably available if it is both 'deliverable' and 'developable' as defined in the glossary to the Framework.
28. However, there is no definition of 'reasonably available' set out in the Framework itself. The PPG does set out a definition with specific respect to the sequential test, which is that the '*location is suitable for the type of development proposed, they are able to meet the same development needs and they have a reasonable prospect of being developed at the same time as the proposal.*'¹ Neither this definition nor the overall PPG guidance on the sequential test refers to the viability of developing a site. In this respect, I am not persuaded by the appellant's argument that 'reasonably available' needs to be further defined by reference to the definitions of 'deliverable' or 'developable' in the Framework, which are terms relevant to housing delivery more generally, in particular the identification of a sufficient housing land supply, a matter not relevant to consideration of the sequential test. Therefore, I approach the sequential test on the basis of the PPG definition.
29. The appellant makes reference to relevant case law in *Mead*², but this judgment does not establish that a site must be developable within three years. Rather, it reinforced that the wording of the Framework is open-textured and that 'reasonably

¹ Paragraph: 028 Reference ID: 7-028-20220825

² No reference is given by the appellant, but the Council has cited *Mead Realisations Ltd v Secretary of State for Housing, Communities and Local Government* [2025] EWCA Civ 32)

available' allows for a degree of flexibility and planning judgment by the decision-maker. Moreover, the court held that a narrow approach, which limited potential alternative sites to those which could accommodate the specific development proposed, would render the sequential test ineffective.

30. In this case, the sequential test has drawn on a variety of sources, including the North Northamptonshire Council Strategic Housing Land Availability Assessment 2011 (SHELAA), the JCS, the North Northamptonshire Council Brownfield Land Register (2023), the North Northamptonshire Council Call for sites (2022), estate agent searches and sites with planning permission or which may be likely to obtain planning permission.
31. However, the subsequent parameters used to assess sites are narrow. The appellant seeks to rule out sites with capacity of fewer than 12 units on the basis of being too small, and more than 16 on the basis of being unviable. Notwithstanding my considerations above as to the relevance of viability to the assessment of whether a site is 'reasonably available', the evidence before me does not explain why all sites capable of 16 or more units would be unviable.
32. Moreover, the parameters are further restricted through an additional narrow range for site size of between 0.2 and 0.3 hectares. The suggestion that anything larger than 0.3 hectares would be an inefficient use of land implies a lack of flexibility to develop any more than the 14 units proposed, which the Council points out was not the case previously, when a 19 unit scheme was sought on the appeal site.
33. The appellant has also sought to limit consideration of the 'type of development' to sites capable of achieving flatted schemes rather than dwellings. 'Type of development' is not further defined in the PPG, but in light of the judgment in *Mead*, this is a narrow definition that serves to exclude the possibility of other forms of residential development, which would serve the same land use purpose.
34. Consequently, I find that the appellant's parameters are overly restrictive and fail to approach the sequential test in a flexible and pragmatic manner as required by the Framework and PPG. From the raw data provided, a considerable number of sites estimated to be capable of delivering between 10 and 25 dwellings are discounted solely on the basis of the size of the site or the number of units falling outside of the 12-16 range favoured by the appellant, including sites otherwise stated to be 'deliverable' or 'developable', although no further explanation of how the sites meet these criteria is given.
35. Of the sites given further consideration, each is ultimately discounted by the appellant. Several are discounted due to physical or policy constraints which would pose a barrier to development, such as sites in use as amenity land to housing developments, car parks or play areas. A number of other sites have been developed and are no longer available. Other constraints are cited including the listed status of factory buildings and a desire to continue ongoing commercial use.
36. It was raised at the hearing that Site 335 has been incorrectly identified. The appellant subsequently updated the evidence, noting that the site was allocated in the LPP2 for 10 dwellings, with planning permission later granted for a total of 14 flats and 11 dwellings, which is suggested to be equivalent to a flatted scheme of over 30 dwellings that would be beyond a comparable scale to the appeal scheme.

37. I acknowledge that some of the sites can reasonably be discounted on the basis of a viable ongoing use of the land or specific policy restrictions, such as to the loss of amenity or recreational land. However, a number of the sites are discounted on the basis of perceived incompatibility of the site to a flatted development of almost identical scale to the appeal scheme. As set out above, this is a restrictive approach which does not establish if the sites would be suitable for a different form or mix of residential development. Nor does it encompass a reasonable range of unit numbers that would account for the inevitable variations in site size across the search area.
38. The appellant seeks to discount other sites on the basis that other developers have been granted planning permission to redevelop them. However, it is not set out in the Framework or the PPG that an alternative site must be available to an applicant to be considered 'reasonably available'. Rather, the PPG states that alternative sites do not need to be owned by the applicant. In this respect, I am not persuaded that Sites 482 and 864 should be discounted, as the evidence indicates they are available for development, and in view of their urban locations and capacity to potentially accommodate a similar scale and form of development.
39. Even if I were to accept the appellant's evidence in respect of the sites assessed in more detail, there are a significant number of sites of broadly comparable size and/or units within the data which have been discounted on the basis of narrow parameters that do not relate to their availability as potential alternative sites. As such, I cannot be satisfied that one or more of these sites is not reasonably available. Therefore, I find that the evidence before me does not establish that there are no other reasonably available sites appropriate for the proposal in areas with a lower risk of flooding, as required by the Framework. As such, the sequential test is not passed.
40. In reaching a view, I understand that planning permission has previously been granted for residential development, most recently in 2017 for 8 units. However, I have no evidence before me in relation to this decision, including any evidence relating to flood risk or the Council's considerations of this issue. As such, I cannot assume that the evidence on flood risk was exactly the same as now. Moreover, it was confirmed at the hearing that no past permission remains extant, and thus no fall-back position exists for the appellant to implement as an alternative to the appeal scheme. This aside, I must have regard to national guidance in force now, which has been updated since the last permission was granted.
41. As the proposed development would fall partially within FZ3a, an exception test is required. However, the PPG is clear that the exception test should only be applied following application of the sequential test. As I have found the proposal does not accord with the sequential test, it matters not whether it would pass the exception test, as this alone would not satisfy the requirements of the Framework and PPG. I have noted that the finished floor levels of the flats would be located above the undercroft parking and well above the level of the predicted 1 in 1000 year plus climate change flood event, with safe access possible via the front entrance to the parts of the site in FZ1. I am also mindful that the appellant has sought to address technical matters relating to site drainage to the satisfaction of relevant consultees, and that such matters could be secured by planning conditions. However, these considerations do not mitigate for the failure to pass the sequential test.

42. Therefore, I conclude that the proposal fails to accord with the sequential test in relation to development in areas at risk of flooding and it cannot be ruled out that the development could be located elsewhere in an area at lower risk of flooding. Accordingly, the proposal conflicts with the aforementioned requirements of Policy 5 of the JCS, the Framework and the PPG in relation to development in areas at risk of flooding.

Neighbours' Living Conditions

43. The Council's concerns relate to effects on the occupants of No 58 in terms of privacy, due to potential overlooking from the proposed balconies to the rear; and overshadowing from the building itself.
44. In terms of privacy, it was confirmed at the hearing that no windows are proposed to the side elevation facing No 58, and thus no direct overlooking would occur. It was also established that the proposed balconies to the rear elevation would not be accessible by residents as recreational spaces, but would be spaces enclosed by full height acoustic windows. Consequently, they would not enable overlooking of the neighbouring property. This aside, the rear elevation would stand further back than that of No 58, meaning that even if one could view from the proposed balconies, there would not be visibility towards the windows of No 58, only oblique views towards the further reaches of the deep back garden. In these respects, I am satisfied that any views would be incidental and would not cause demonstrable harm to the privacy enjoyed by neighbours.
45. In terms of overshadowing, the proposed building would stand to the south of No 58 at a distance of some 11 metres and a height of 15 metres to the roof ridge. The Council accepts that this distance is sufficient to avoid an overbearing effect or undue sense of enclosure. The appellant points to the reduced size and shape of the roof compared to the previous application as lessening any impact from overshadowing. I am not provided with any technical evidence showing the potential shadowing impact of the proposed building now or previously.
46. The orientation, proximity and height of the proposal would naturally cast shadows over parts of the rear garden of No 58 closest to the building itself, where there is a patio for recreational use. These shadows would occur during the middle of the day, but for a relatively short period of time. Given the westerly orientation of the rear windows, they would not receive morning sunlight in any event, with shadows being cast towards the far end of the garden, and they receive sunlight at an acute angle during the middle of the day. Thus, the impact of additional shadowing would not be significant or prolonged, as the windows would remain in full sun from the early afternoon onwards, as at present. I accept that shadowing may increase in winter when the sun is lower in the sky, but this would coincide with less use of outdoor spaces and hours of sunlight. Overall, I am satisfied that neighbouring occupants would not suffer a significant adverse effect due to overshadowing.
47. Therefore, in this matter, I conclude that the proposal would safeguard the living conditions of neighbouring occupants, in accordance with Policy 8(e) of the JCS which, among other things, requires that development not result in an unacceptable impact on the amenities of neighbouring properties.

Standard of Accommodation

48. The proposed balcony arrangement to the rear elevation is a response to concerns raised in respect of noise pollution from traffic on the nearby A14 dual carriageway, in that it would suppress noise experienced within the units. The evidence indicates this would mitigate noise impacts, but the Council raises the concern that this relies upon windows being kept fully closed at all times, which would undermine the standard of accommodation. It further points to the unsuitability of the communal space, the parking arrangements and internal size and layout of some units.
49. The balcony design shows that the lower parts of the inner windows would be openable for ventilation, with a further Juliet balcony to the outer edge to provide continued acoustic screening. Noise from the A14 would be a constant feature, though it would be a continuous, low level drone rather than a loud, impulsive or unpredictable noise that would be more noticeable and disruptive. It is also the case that many dwellings stand closer to the A14 but appear to have normal, openable windows without bespoke acoustic mitigation. As such, I am satisfied that the proposed system would allow adequate outlook and ventilation for occupants.
50. The Council refers to one bedroom to Unit 11 failing to achieve the minimum width for a single bedroom under the Nationally Described Space Standards (NDSS)³, and to otherwise contrived layouts, though this is not argued to be a reason for refusal in and of itself. The bedroom in question would be narrow, but each of the units proposed, including Unit 11, would be generous in floorspace, exceeding the minimum sizes of the NDSS, several by a considerable amount. I am satisfied that the internal layouts would be suitable.
51. The consequence of the proposed balcony design is that they would not be accessible for use by occupants as private amenity space. The Council has acknowledged that it does not have adopted requirements for external spaces to be provided for flats, though Policy 8 of the JCS requires that development should incorporate flexible and resilient designs for buildings and their settings, including access to amenity space. In this case, that would be provided by the external garden space to the rear.
52. The communal space would be located in a cramped position, with a narrow, elongated shape that would restrict its utility. It would require access via the undercroft parking area and would be located next to and in direct view of the outdoor parking area. It would be enclosed by a high wall to the other side, beyond which is an ongoing commercial use. It would not represent an inviting area for occupants, being exposed to view from the car park but also distant from the main building and lacking natural surveillance from the flats themselves.
53. Overall, I find that the proposed acoustic measures would be capable of addressing concerns over noise pollution for occupants, and the size and space of the proposed flats would provide a satisfactory level of internal accommodation overall. However, the proposal would fail to provide suitable access to amenity space, due to the significant shortcomings of the design of the communal space to the rear. I acknowledge that the internal space provided would offer some compensation for this lack of external space, but it would nevertheless be an unnecessary shortcoming of the scheme's design that would undermine the overall quality of the

³ Technical housing standards – nationally described space standard - March 2015

accommodation for prospective residents, alongside the poor parking layout, which I address below.

54. Therefore, on this issue, I conclude that the proposal would conflict with the requirements of Policy 8 of the JCS that developments should ensure quality of life and safer and healthier communities by, among other things, creation of safe environments that benefit from natural surveillance and incorporating flexible and resilient designs with access to amenity space.

Parking and Highway Safety

55. The proposal would utilise the existing access point from Midland Road and provide a vehicular access to the side of the building leading to the surface and undercroft parking to the rear. The Council raised concerns over whether the access could meet the necessary technical specifications, including width, gradient and drainage. At the hearing, the Council indicated that these matters could be addressed by condition. Having observed the site, I am satisfied that a safe and suitable access to meet the necessary specifications could be achieved.
56. The proposed layout would provide 38 parking spaces, made up of 24 resident spaces and 14 for visitors. This accords with the Northamptonshire Parking Standards (September 2016). However, those standards also require parking spaces to be at least 2.5m wide and 3.3m wide where the space is located against a wall or similar solid structure. The plans before me indicate several spaces, namely numbers 1, 8, 9 and 16 to the corners of the undercroft parking, would not include the additional width required to account for the adjacent walls. The distance between spaces 1-4 and 9-12 is also less than the guideline 6 metres to allow for ease of manoeuvring. Other external spaces would be located next to footpaths (Nos 17, 25 and 26) or bollards (Nos 32, 33 and 38) but at 2.5m width, not 3.3m. Consequently, each of these spaces would be difficult to access, increasing the likelihood that they would go underused and lead to ad hoc parking elsewhere on the site or on the street. Such uncontrolled parking would undermine the safety of drivers and pedestrians accessing or leaving the site, as well as those travelling along Midland Road.
57. Given the number of spaces failing to meet the standard, there is a fundamental shortcoming with the proposed layout that I am not satisfied could be resolved through a planning condition. Therefore, I find that the proposal would cause harm to highway and pedestrian safety through inadequate parking provision, in conflict with Policy 8(b) of the JCS.

Effect on Special Protection Area

58. The site lies within the 'zone of influence' of the Upper Nene Valley Special Protection Area (SPA), which is designated as an important wetland habitat for a number of bird species, including bittern, golden plover, gadwall and mute swan. The SPA is identified as being vulnerable to harm through recreational disturbance, which would be exacerbated by an increase in the local population resulting from new residential development. Additional residents from the proposal could cause an adverse effect on the integrity of the site. Therefore, alone and in combination with other development, the proposal constitutes a likely significant effect to the protected site.

59. As the competent authority in this case, I am required to carry out an appropriate assessment in relation to the effect of granting permission on the integrity of the protected site. Natural England has advised that a strategic mitigation scheme is in place, in the form of a financial contribution secured through a planning obligation. The Upper Nene Valley Gravel Pits Special Protection Area Technical Guidance and Mitigation Strategy (June 2026) sets out various possible forms of mitigation that may be funded by the contributions. This document has recently replaced a supplementary planning document from 2015 which previously addressed potential mitigation.
60. The appellant has indicated a willingness to make the contribution, but by the time of the hearing, there was no completed planning obligation before me which would secure it. Following the hearing, the appellant has submitted a draft unilateral undertaking (UU) which includes a proposed contribution towards SPA mitigation. However, this undertaking is unsigned and therefore of no legal effect. As such, it would not secure the required mitigation.
61. Moreover, having regard to the PPG, the evidence before me does not indicate any exceptional circumstances which would justify use of a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into. There are no other courses of action available to me through the appeal process. Consequently, the appeal proposal would fail to provide the appropriate mitigation. As there is no mechanism in place by which the required mitigation can be secured and controlled, I cannot be satisfied that there would be no adverse effects on the integrity the SPA from additional recreational pressure arising from the proposed development.
62. Following Appropriate Assessment and adopting a precautionary approach, I cannot conclude that the development would not have an adverse impact on the integrity of the SPA. There would be conflict with the requirements of the Conservation of Habitats and Species Regulations 2017 and the guidance of the Framework, which indicates the presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site, either alone or in combination with other projects.
63. Therefore, the proposal would be contrary to Policy 4 of the JCS, which requires that developments that are likely to have an adverse impact, either alone or in combination, on the Upper Nene Valley Gravel Pits SPA or other European Designated Sites, must satisfy the requirements of the Habitats Regulations, determine site specific impacts and avoid or mitigate against impacts where identified.

Effect on local infrastructure

64. Financial contributions are sought by the Council in respect of early years, primary and secondary education; libraries and healthcare facilities. Having regard to the evidence before me, I am content that each of these is necessary to make the development acceptable and that they would be directly related to the development and fairly and reasonably related in scale and kind, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the Framework.
65. However, there is no completed planning obligation before me that would secure these contributions. The PPG sets out that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement

has been entered into is unlikely to be appropriate other than in exceptional circumstances where there is clear evidence that the delivery of the development would otherwise be at serious risk. There is no clear evidence to suggest that such exceptional circumstances would apply here. Furthermore, the PPG also sets out that no payment of money can be positively required by condition. Therefore, in the absence of a planning obligation to secure these contributions, the proposal would conflict with Policy 10 of the JCS, which requires development to be supported by the timely delivery of infrastructure, services and facilities necessary to meet the needs arising from the development.

Planning Balance and Conclusion

66. The Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites, with supply stated to be some 4.6 years. The proposal would deliver additional housing in an accessible location in line with a key aim of the Framework to significantly boost the supply of homes, and would help to address the shortfall in supply. It would also bring a disused site back into use. These are matters of significant favourable weight in the planning balance.
67. There would be temporary economic activity generated by construction of the dwellings and subsequently residents would generate additional custom for local businesses, though given the overall scale of the proposal, this would be a modest benefit to which I afford limited weight. Potential net gains in biodiversity are unquantified at this stage and therefore attract modest weight.
68. Set against these benefits, I have found on the main issues that there would be adverse impacts on the character and appearance of the area, in the failure to pass the sequential test for flood risk; in terms of the standard of accommodation and parking to be provided; in respect of the integrity of the SPA and in addressing the impacts of the development on local infrastructure. When considered together, I conclude that the proposal conflicts with the development plan, taken as a whole.
69. In light of the Council's housing land supply position, Paragraph 11(d) of the Framework is engaged and policies which are most important for determining the application are deemed to be out-of-date.
70. However, Paragraph 11(d)(i) sets out that the presumption in favour does not apply where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. Areas at risk of flooding are one such area or asset as made clear by Footnote 7. My findings above in relation to the failure of the proposal to pass the sequential test means there is conflict with the Framework policies relating to areas at risk of flooding. I find that this conflict weighs significantly against the proposal and represents a clear reason for refusing the development. Consequently, the presumption in favour of sustainable development is not engaged.
71. Separately, habitats sites are a further area or asset of importance under Footnote 7. Paragraph 193 of the Framework sets out that where significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. In view of the harm identified to the integrity of the SPA, the Framework also points to the refusal of permission for this reason.

72. My findings on the main issues mean the proposal would conflict with the development plan, taken as a whole. Notwithstanding the Council's housing position, I find the most important policies in this case - Policies 3, 4, 5, 8, 10 and 30 of the JCS and Policy EN1 of the LPP2 - remain broadly in accordance with the Framework aims of directing development to the most sustainable locations; achieving well-designed places; addressing flood risk; conserving the natural environment; providing safe and suitable access; addressing the infrastructure requirements of development and ensuring a high standard of amenity for existing and future users. Therefore, the conflict with these policies still merits significant weight in decision-making terms.
73. Therefore, even in the context of the Council's housing position, material considerations in the proposal's favour do not outweigh the identified conflict with the development plan and do not indicate that permission should be granted. Consequently, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Lawson	APC Planning
Dax Byrne	Appellant, Springbirch Developments
Kieran Byrne	Springbirch Developments

FOR THE LOCAL PLANNING AUTHORITY:

Pete Baish	Lead Planning Officer
James Paterson	Principal Planning Officer

INTERESTED PARTIES:

Ian Crick	Local Resident
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DOCUMENTS SUBMITTED AT THE HEARING

Written application for costs submitted by Local Planning Authority

Hard copy of the Upper Nene Valley Gravel Pits Special Protection Area Technical Guidance and Mitigation Strategy (June 2026)

DOCUMENTS SUBMITTED AFTER THE HEARING

Electronic copy of costs claim by Local Planning Authority, dated 17 June 2026

Copy of agreed planning conditions, received 18 June 2026

Email Correspondence from appellant dated 25 June 2026, addressing the following:

- Response to the Council's correction to its Statement of Case regarding Site 335 in the Sequential Test
- Response to the Council's submission of the Upper Nene Valley Gravel Pits SPA Technical Guidance and Mitigation Strategy
- Confirmation of the appellant's agreement to the submitted list of conditions, including pre-commencement conditions
- Response to the Council's costs claim
- Draft unilateral undertaking attached

Local Planning Authority final comments in respect of its claim for costs, dated 3 July 2026.
