

West Northamptonshire Council

South Northamptonshire Local Area Planning Committee

9 December 2021

Appeals Progress Report

Report of the Assistant Director – Economic Growth and Regeneration

This report is public

Purpose of report

This report aims to keep members informed upon applications which have been determined by the Council and where new appeals have been lodged. It provides the details of new appeal lodged between the 1 October and 1 December 2021 and of Public Inquiries/hearings scheduled and appeal decisions received between 1 April 2021 and 30 September 2021, and a summary of those decisions.

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Introduction

- 2.1 The report lists appeals submitted, those outstanding and those determined.

3.0 Report Details

3.1 New Planning Appeals Received – 01 October to 1 December 2021

Public Inquiry

Nil

Informal Hearing

Nil

Written Reps

WNS/2021/0090/FUL 117 High Street Brackley

An appeal by Mr D Berlouis against the refusal of planning permission for a single storey rear extension, sedum roof, replacement of front door.

Start Date: 02/11/2021 **Statement Due:** N/A

WNS/2021/0560/FUL 53 Willow View Kislingbury

An appeal by Mr G Cooke against the refusal of planning permission for an extension to side of property including replacement garage and new front porch

Start Date: 10/11/2021 **Statement Due:** N/A

WNS/2021/0037/FUL 1 Graham Hill Road Towcester

An appeal by Mr P Smith against the refusal of planning permission for a single storey timber home office on the front elevation of the property (Retrospective)

Start Date: 17/11/2021 **Statement Due:** N/A

3.2 New Enforcement Appeals

E/2018/0016 Bartholomew Arms 30 High Street Blakesley Towcester NN12 8RE

An appeal by Mr H Hopewell against the serving of an enforcement notice in relation to works carried out Without Listed Building Consent, the use of cement mortar to fill in cracks in the wall on the outbuilding of the public house instead of lime mortar.

Start Date: 02/11/2021 **Statement Due:** 14/12/2021

3.3 Appeals in progress

Public Inquiries

S/2020/1376/MAO Land South of Blakesley Hill Greens Norton

An appeal by Richborough Estates against the refusal of outline planning permission for the development of up to 69 dwellings, with associated access, landscaping, open space, and drainage infrastructure (all matters reserved other than access)

Start Date: 15/02/2021 **Statement Due:** 22/03/2021 **Inquiry Date:** 08/06/2021

Hearings

S/2020/0223/MAO Land off Northampton Road Blisworth

An appeal by Manor Farm Developments (UK) Ltd & CBC Meats Ltd against the refusal of outline planning permission for residential development of up to 30 no. dwellings with all matters reserved except for access.

Start Date: 23/06/2021 **Statement due:** 28/07/2021 **Hearing Date:** 20/09/2021

Written Representations

S/2021/1872/FUL 23 Lodge Road Little Houghton

An appeal by Mr David Perkins against the refusal of planning permission for a ground floor rear extension and replace windows and doors.

Start Date: 29/07/2021 **Statement Due:** 02/09/2021

S/2021/1873/LBC 23 Lodge Road Little Houghton

An appeal by Mr David Perkins against the refusal of listed building consent for a ground floor rear extension and replace windows and doors.

Start Date: 29/07/2021 **Statement Due:** 02/09/2021

S/2021/0210/ADV Pizza Tome 73 Watling Street Towcester

An appeal by Pizza Time Towcester against the refusal advertisement consent for a Fascia sign with lighting strip, internally illuminated projecting sign, painted render to match the signage (Retrospective)

Start Date: 17/08/2021 **Statement Due:** N/A

Enforcement Appeals

Nil

CIL Appeals

Nil

3.4 Forthcoming Public Inquires and Hearings between 1st November 2021 and 1st March 2022

S/2020/0200/EN Land at Asana Lodge 48 Moorend Road Yardley Gobion

An appeal by Step One Recovery UK Ltd against enforcement notice regarding, the unauthorised change of use of the land from nursing home to a rehabilitation centre known as Asana Lodge (Heal the Mind, Heal the Body) without the benefit of planning permission

Start Date: 23/02/2021 **Statement Due:** 06/04/2021 **Inquiry Date:** 08/02/2022

S/2020/0836/FUL Land East of Northampton Road Yardley Gobion

An appeal by Mr D Moran against the refusal of planning permission for the proposed change of use of land to create a 4 pitch Gypsy/Traveller site comprising the siting of 1 mobile home, 1 touring caravan, and the erection of 1 day room per pitch.

Start Date: 17/08/2021 **Statement Due:** 21/09/2021 **Date of Hearing:** TBC

3.5 Planning Appeal Results Received between 1st April 2021 and 30 September 2021

Inspectors appointed by the Secretary of State have:

DISMISSED the appeal S/2020/0449/FUL at Land west of Holy Cross Church Collingtree Road Milton Malsor by Paul Newman Homes for Change of Use of existing barn from Agricultural to Use Class C3 (Dwelling house) with the insertion of ground floor glazing and flue, demolition of lean to and the construction of a single storey extension with associated works. Change of use of paddock to residential garden. (Delegated Refusal)

Summary of Decision:

The Inspector acknowledged and accepted the Council's reasoning for referring to housing policies with the Local Plan Part 2; the mobile home/caravan is not a dwelling by definition but the positioning of it for residential purposes is effectively a

change of use of land to residential, and so should be considered in that context in policy terms.

The Inspector concluded that there was justification to require someone staying on site at all times. They assessed the existing buildings on site, which Officers referred to in the refusal, and found that they were in use in association with the trade/business associated with the mobile home. This is despite Brexit having now taken effect, and despite the buildings having extant permission to change use to B1 offices. The Inspector felt that the business was resilient to change and likely to remain viable.

The Inspector therefore concluded that the mobile home represented the only reasonable means of providing guardianship over the site when the applicant was away. They allowed the appeal but, in recognition of the fact that the mobile home was contrary to policy and that the applicant should ideally be using existing buildings on the site, gave the caravan a two-year temporary permission, limited its occupation to no more than six months out of any calendar year, and required the applicant to keep a record of its occupation and provide this to the Council as part of a statutory declaration within a certain time period at the start of each calendar year.

The Inspector did not agree the buildings were redundant as agricultural machinery was being store inside and that it has not been adequately demonstrated that another building would not be required to fulfil its current function.

The Inspector found that the building is not capable of conversion without the need for significant alteration or rebuilding, however, this would be somewhat short of a complete demolition and rebuild and as such would not be tantamount to a new dwelling in the countryside.

The Inspector was of the view that the proposal would unduly change the shape and simple form of the barn and would significantly undermine the traditional form and character of the building.

The inspector was of the view that the design and excessive number of new modern openings in the existing brickwork and the chimneys would introduce incongruous domestic style features that would not sit comfortably with the rural appearance of the building and would fail to preserve the traditional character of the building.

The cumulative impact of the driveway and parking area, pathways, the various lawn areas and domestic paraphernalia extending across almost the entire site is considered to result in a domestication of the site that would significantly erode its verdant and agrarian appearance adversely affecting the character and appearance of the area. A condition preventing domestic paraphernalia is not considered to be reasonable or enforceable and would not overcome the identified harm.

The Inspector took into account the site's prominent position in the village and concluded that the scheme would not successfully integrate into the wider landscape.

As a result the inspector concluded that the proposal would be contrary to policies LH4(1a), SS1 and SS2 of the Local Plan and SA, S1, S10 (a and i) and R1 of the JCS and Chapters 4.15 and 7.5 of the Design Guide.

In terms of the conservation area and surrounding listed buildings, the Inspector argued that the proposal would appear intrusive and incongruous due to the area's topography changing the area from a verdant appearance to suburban and would result in the domestication of the site which would unacceptably erode its verdant and agrarian appearance. This would not preserve the character or the appearance of the Conservation Area and the setting for nearby designated heritage assets. Whilst there is less than substantial harm the Inspector does not consider that adding to the housing supply or the creation of construction jobs or potential deterioration of the barn is sufficient public benefit to outweigh that harm. As a result the inspector is of the view that the proposal would conflict with policies HE5 and HE6 of the Local Plan and policy BN5 of the JCS.

The Inspector attached a lot of weight to the verdant setting that the site provides to the village and the many designated heritage assets.

Contrary to the appellants the Inspector considers the potential deterioration and dereliction of the building is not justification for a scheme that is found to be harmful. Instead he considers that despite its condition, it's simple utilitarian appearance contributes to the agrarian appearance of the area.

In conclusion the Inspector found that the proposed development would harm the rural character and appearance of the area and unduly affect heritage assets.

DISMISSED the appeal S/2021/0098/FUL at Land west of Holy Cross Church Collingtree Road Milton Malsor by Paul Newman Homes for Change of Use of existing barn from Agricultural to Use Class C3 (Dwelling house) with the insertion of ground floor glazing and flue, demolition of lean to and the construction of a single storey extension with associated works. Change of use of paddock to residential garden. (Delegated Refusal)

Summary of Decision:

This application simplified the design and scaled down the extension from the previous scheme by removing an L-shaped extension and extending only in a linear form.

The amount of work required to convert it to a habitable dwelling was still considered by the inspector to be considerable. Finding that the proposals would materially alter the simple design and character of the agricultural building with the nature of additional openings giving the building more of a modern domestic feel than an agricultural conversion and removing its agricultural nature. When added to the domestic paraphernalia that undoubtedly comes with a new dwelling it would cause significant harm to the character and appearance of the area and not enhance its immediate setting.

The inspector found to conflict with LP Policy LH4 in relation to the control of single dwellings in the open countryside, Policies SS1 and SS2 which seek to maintain the individual identity of villages and expect development to be design led and integrate with its surroundings and character.

The proposal would conflict with polices SA, S1 and R1 of the West Northamptonshire Joint Core Strategy (2014) (the JCS) which, amongst other matters, expects development to enhance and maintain the distinctive character

and vitality of rural communities and take into account the role, scale and character of the settlement.

The barn has a simple appearance that contributes to the rural appearance of the area, and I find that the appeal proposal would bring a domesticity to the site that would harm the character and appearance of the CA. The site functions as a separation between the church and the core of the village, performing an important function and is a key part of the setting of the Church. The appeal proposal would change the nature of that relationship, introducing a domesticity that would be extremely apparent and intrude into this relationship and would lower the contribution of the site toward the setting and significance of the listed buildings.

The inspector identified harm to the character and appearance of the Conservation Area, the proposals would cause less than substantial harm to the Conservation Area. In accordance with Paragraph 202 of the National Planning Policy Framework (2021) (the Framework), less than substantial harm should be weighed against the public benefits of the proposal. The proposal would add a dwelling to the local housing supply and would provide some construction employment, whilst the occupiers would contribute towards the village. However, I find these benefits to be extremely modest and can only be afforded limited weight. The potential for degradation and deterioration of the barn does not offset the harms that I have identified from the proposal. The proposal would be contrary to Policies SS2, HE5, and HE6 of the LP and Policies S10 and BN5 of the JCS, which collectively, amongst other matters, expect development to not adversely affect built heritage; to preserve the setting of listed buildings and to preserve or enhance the significance of conservation areas, including through preventing the loss of open spaces and other features of importance and to protect conserve and enhance heritage assets and their settings. I also find that it is contrary to the heritage guidance set out in the Framework.

DISMISSED the appeal S/2020/1297/FUL at 6 Grove Lane Weston by Carrick and Jessica Barrons and Burnett against the refusal of planning permission for Two storey rear extension. Detached double garage (Delegated Refusal)

Summary of Decision:

The existing single storey rear projection would be replaced by a substantially larger two storey structure, which would extend almost the full length of the appellants' garden. This extension would be very deep in relation to the depth of the existing house. It would also be comparatively bulky and overly dominant in the context of the host dwelling.

The projection would include a vast two-storey blank elevation and over-complicated stepped roof design, both of which would fail to respect the character and appearance of the existing property. Whilst the extension across the rear elevation of the dwelling would be smaller in scale, it would include an awkward cat-slide roof detail which would badly reflect the existing traditional cat-slide roof extension it would replace.

The Inspector found that together, the proposed extensions would subsume the rear elevation of the host property and would not appear subservient to the scale or depth of the original dwelling. As described, the appeal scheme would be at odds with the character and appearance of this traditional dwelling of simple form, in

terms of scale, mass, and design. On this basis, the proposals would unacceptably erode and harm the original character and appearance of the host property.

The appeal site occupies an elevated position at the edge of the village, with surrounding properties sitting at a lower level. The Inspector acknowledges that the proposed rear projection would be obscured to a certain extent by neighbouring property, No 4 Grove Lane, when viewed from Grove Lane. However, given the scale and mass of the proposal, it would still be clearly visible from the public realm. The proposed rear projection would also be highly visible from nearby properties and their gardens and the nearby Public Right of Way. Consequently, the scheme would unacceptably harm the character and appearance of the area.

The removal of the existing rear projections could declutter the rear elevation of the property, this matter would not outweigh the overall harm the appeal scheme would have on the character and appearance of the dwelling.

DISMISSED the appeal S/2020/0945/MAO at Land to the rear of 27 High Street Paulerspury by Rainier Developments Ltd and National Westminster Bank PLC against the refusal of outline planning permission for Demolition of the existing buildings; erection of up to 26 dwellings, a new vehicular access off High Street, public open space, landscaping and associated works. (Committee Refusal - Overturn)

Summary of Decision:

The application site was located outside the settlement confines of a Secondary Service Village (category A). Officers recommended approval on the basis the proposal had been reduced in scale, preserved an important local view, utilised brownfield land, made a contribution to an enhanced local bus service (c.£45k to a community service for two years), and provided 50% affordable housing.

The appeal was heard at a four-day inquiry with the appellant conceding that the Council could demonstrate a five-year housing land supply on the first morning following the issuing of the Middleton Cheney decisions.

The Inspector was not convinced that the proposed bus service contribution would make a meaningful change to public transport use in the long-term and therefore the village remained relatively inaccessible by non-car modes.

He also effectively gave less weight to affordable housing provision in light of the fact a 100% affordable development had recently been granted nearby.

On the matter of previously-developed land, the Inspector interestingly only considered this in a visual context. He considered that the existing buildings on the site were rustic in appearance and whilst their removal would be a benefit, there would still be encroachment into open countryside. By contrast, in recommending approval, Officers gave significant weight to the reuse of previously developed land in its own right, i.e. as a sustainable principle as well as a visual benefit.

The Inspector also gave weight to biodiversity gain and public open space provision but in summary dismissed the appeal on the grounds of being a departure from the development plan.

Lessons Learned:

- Policy LH3 of the Part 2 Local Plan supports 100% affordable housing schemes outside settlement confines, which if approved may assist in resisting market-led developments in the same village.
- Previously-developed land may be treated principally as a visual consideration.

Contributions to public transport need to be long-term to be meaningfully increase the sustainability of villages.

DISMISSED the appeal S/2021/0103/FUL at 19 Stratford Road Road by Miss Vicki Connell against the refusal of planning permission for a dropped kerb. (Delegated Refusal)

Summary of Decision:

The development was to create a dropped kerb to allow vehicles to enter the front of the property, a modern dwelling in the middle of Roade where properties all have parking to the rear rather than the road-frontage.

The inspector agreed that the proposed development would result in parking in front of the dwelling, which would be visually inappropriate given no dwellings on this side of the road had such an arrangement. The Inspector also observed traffic conditions and agreed that an access in this location would be dangerous on a busy through-road.

DISMISSED the appeal S/2020/0930/MAO at Land South of Station Road Blisworth by Land Allocation Ltd against the refusal of outline planning permission for up to 35 (maximum) residential dwellings including access with all other Matters Reserved. (Committee Refusal)

Summary of Decision:

The site is located outside the defined development limits of Blisworth; there was agreement that the site is situated in the countryside for decision making purposes; and that the Council could demonstrate a five-year housing land supply.

The main issues were:

- (i) whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy;
- (ii) the effect of the proposal on the character and appearance of the area, including landscape character;
- (iii) whether the proposal would preserve the setting of the Grade II Listed Building at Nos 25 – 27 Grafton Villas, Northampton Road; and
- (iv) whether the proposal makes adequate provision for any additional need for affordable housing, education, public open space, refuse / recycling, libraries and healthcare arising from the development.

The Inspector concluded that the proposed development was not in an appropriate location, would result in harm to the character and appearance of the area and would not preserve or enhance the setting of the Grade II Listed Grafton Villas.

Collectively these matters amounted to significant conflict with the development plan as a whole and the proposal did not amount to sustainable development. There were considered to be no other considerations, including the policies in the Nation Planning Policy Framework that would outweigh the conflict.

DISMISSED the appeal S/2020/0157/MAO at Land North of Ashton Road Hartwell by Kier Group Limited against the refusal of Outline application for the erection of up to 55 dwellings, landscaping, open space and associated works including access, with all other matters reserved. (Committee Refusal)

Summary of Decision:

There were two main issues of contention; the appropriateness of the proposed development within the open countryside having specific regard to i) accessibility to services; and ii) the character and appearance of the area.

As far as i) was concerned, the Inspector found that the level of service provision which would be available to future occupants was reflective of a category B village only. This includes services such as a shop/post office, public house as well as a primary school. He noted that it would still be necessary to commute further afield for other day to day needs such as shopping, employment, secondary schools, or higher education.

He recognised that although there is a bus service operating within Hartwell it has a limited frequency, and entails restricted destination points, relative to more densely populated higher order settlements within the district and beyond. He was not persuaded the level of service would offer a realistic alternative to the flexibility of daily car use by potential future occupants when also considering overall commute times to reach main service and employment areas.

He noted the lack of employment within the village and that the rural roads lacked footways and lighting which together with the distances of the village from larger settlements made options for walking and/or cycling undesirable. Overall he found conflict with a raft of relevant strategic and local policies, as well as the NPPF, and to this he attached substantial weight.

In respect of point ii) he found the open countryside in the vicinity to be an attractive and dominant component of local distinctiveness. He noted the modest size of Hartwell and that the existing landscape greenery, which the appeal site is part of, encircling the village confines to be a noticeable and distinctive part of its setting. He found the site to have a stronger connection with the open countryside than the village confines and a clear visual distinction between buildings within the village boundary and those within the open countryside. He agreed the development would urbanise the site and alter the setting of the village, significantly reducing the amount of attractive undeveloped greenery which currently surrounds it. The urbanisation the scheme would lead to substantial visual harm to the character and appearance of the area. This too would contradict the policies of the strategic and local plans.

In making his decision the Inspector noted that the Council could evidence a 5 year housing land supply and applied full weight to the housing distribution policies in the development plan. He afforded only modest weight to delivery of affordable housing

in this location as the evidence did not demonstrate that a pressing or urgent need exists for local people to find nearby and affordable accommodation within Hartwell.

Lessons Learned:

Affordable housing need across the district does not always justify great weight being applied to affordable housing delivery in lower order settlements. In this case the Inspector found there should be a pressing need for affordable housing within the village itself. He found evidence of demand from the Housing Register to not always demonstrate a pressing or urgent need in that village per se. Therefore in this case only 'modest' weight was applied.

In terms of accessibility, it is important to consider not only service provision in the village, but how higher order settlements will realistically be served by public transport, cycle and walking. Therefore public transport routes and timetables are key.

DISMISSED the appeal S/2021/0028/HPA at Stonecourt 50 Church Street Helmdon by Mr T Beckett against the refusal of Determination as to whether prior approval is required (under Class AA, Part 1 of the above Order) for the extension to the dwelling by way of an additional storey in respect of the impact on the amenity of any adjoining premises; the design and external appearance; air traffic and defence asset impacts; and the impact on any Secretary of State protected view. (Delegated Refusal)

Summary of Decision:

The application was one of two submitted concurrently for the same development; one with a hipped roof (the subject of this appeal) and one with a conventional gable roof (which was approved under delegated authority). It is unclear why the appellant chose to appeal the hipped roof version when they had permission for the gable roof but the Inspector agreed that it would be less preferable within the street scene, with no other properties nearby having this arrangement.

The application was also refused on the grounds of an unusual round window that was proposed to be inserted into the front elevation at first-floor level. However, the Inspector found that this particular element added interest.

Lessons Learned:

- This was the first-Class AA proposal received by the Council. The decision therefore confirms that the Council's general approach to design matters may be taken with this new form of permitted development too.
- Unique or unusual fenestration can be acceptable in some instances.

DISMISSED the appeal S/2021/0117/FUL at 50 Church Street Helmdon by Mr T Beckett against the decision of the Council to attach conditions 3, 4, 5, 6 and 7 to planning permission S/2021/0117/FUL. (Delegated Approval with Conditions)

Permission was granted subject to several standard design conditions that are commonly added in respect of things like a stone sample panel, architectural

detailing, meter boxes and other matters of appearance. The appellant took issue with these claiming they were too onerous to comply with and unnecessary.

The inspector disagreed in respect of every condition and regarded them as reasonable and necessary.

Lessons Learned:

The Council's standard conditions in respect of design matters are fit for purpose.

ALLOWED the appeal S/2020/2078/FUL by Mr M Thomason against the refusal of planning permission for Erection of a car port (Retrospective) (Delegated Refusal)

Summary of Decision:

The development was a relatively large steel and Perspex canopy over a driveway, which obscured part of the front elevation. It was next to the conservation area but not within it and was therefore resisted on general design grounds rather than specific heritage concerns.

The inspector acknowledged that the contemporary design of the car-port may split opinion but overall concluded that it did not harm the character of the property or the area.

Lessons Learned:

When considering contemporary design should potentially only be resisted in particularly sensitive or prominent areas.

ALLOWED the appeal S/2020/1726/FUL at 2 Pippin Close Cogenhoe by Nicky Clayden against the refusal of planning permission for Take down existing fence to side boundary and replace with 1800mm high close boarded fence. (Delegated Refusal)

Summary of Decision:

2 Pippin Close occupies a corner plot with its side boundary fronting Victoria Road. It was proposed to fence in the side, garden area with a 1.8 metre close boarded fence. A similar, retrospective, planning application for a fence in this location was refused planning permission in 1998 and this existing fence was then taken down and no planning appeal was made.

There were objections from local residents in relation to the later application (subject to this appeal) on the grounds that the proposed fence affected visual amenity in the street scene, and that a previous application had been refused for the same development.

Whilst the Inspector was mindful that a similar scheme had been previously refused by the Council and acknowledged that the Council had been consistent in dealing with both applications, the Inspector did not agree that the proposed 1.8 metre fencing harmed the visual appearance of the residential area by reducing its open

plan character and given that there were no highways safety issues allowed the appeal.

Lessons Learned:

Each case to be considered on its own merits. Specifically refer to the design guide where appropriate to do so.

ALLOWED the appeal S/2019/2539/FUL by Sky Bird Sales against the refusal of planning permission for Static Caravan (Retrospective) (Delegated Refusal)

Summary of Decision:

The Inspector acknowledged and accepted the Council's reasoning for referring to housing policies with the Local Plan Part 2; the mobile home/caravan is not a dwelling by definition but the positioning of it for residential purposes is effectively a change of use of land to residential, and so should be considered in that context in policy terms.

The Inspector concluded that there was justification to require someone staying on site at all times. They assessed the existing buildings on site, which Officers referred to in the refusal, and found that they were in use in association with the trade/business associated with the mobile home. This is despite Brexit having now taken effect, and despite the buildings having extant permission to change use to B1 offices. The Inspector felt that the business was resilient to change and likely to remain viable.

The Inspector therefore concluded that the mobile home represented the only reasonable means of providing guardianship over the site when the applicant was away. They allowed the appeal but, in recognition of the fact that the mobile home was contrary to policy and that the applicant should ideally be using existing buildings on the site, gave the caravan a two-year temporary permission, limited its occupation to no more than six months out of any calendar year, and required the applicant to keep a record of its occupation and provide this to the Council as part of a statutory declaration within a certain time period at the start of each calendar year.

Lessons learned:

The circumstances at the time of the Inspector's visit greatly influenced their decision. It seems like a fair decision to reach, one which does not jeopardise the business but also places the onus on them to evidence the building's occupation in compliance with the planning condition and remove it if it becomes redundant. The condition imposed is quite onerous on the applicant and rather difficult to enforce, however.

ALLOWED the appeal S/2020/0183/MAF at Land South of Thenford Road Middleton Cheney by Manor Oak Homes against the refusal of planning permission for Residential development comprising 2x1-bedroom apartments, 2x2-bedroom apartments, 4x2-bedroom houses, 7x3-bedroom houses and 5x4-bedroom houses (20 in total) including open space, access and ecological enhancements. (Committee Refusal)

Summary of Decision: Co-joined appeal with Waters Lane – below.

8 day public inquiry focussing on 5 year HLS, impact on spatial strategy and landscape. The Inspector found that the Council could demonstrate a 5.14 year HLS (rather than the claimed 8.26 years) so the tilted balance was not engaged and the development plan was up to date.

She found that the development was not in accordance with the development plan; nor was it in accordance with the spatial strategy. However, she found that the purpose of village confines was to direct development to the most sustainable locations in the district and that where there were opportunities to provide housing in accessible locations then weight should be given in the planning balance.

She noted that Middleton Cheney was a Primary Service Village and a sustainable settlement. She noted the range of services and facilities and public transport links to Banbury and Brackley and the proximity of the site within walking distance of those services. She found that the scale of the development was relative to the village's status in the hierarchy.

She did not consider the Special Landscape Area (SLA) to be a 'valued landscape' and she found that any harm would be minor adverse due to site size, location and context. She also found that the development was compliant with the Design Guide and had an acceptable landscape strategy.

In her planning balance she found that there were material planning considerations that outweighed conflict with the Development Plan. It is important to note these and the weight applied;

- Affordable Housing – significant weight (the council has only delivered about 51% of its affordable needs)
- Market Housing in an accessible location – “appreciable” weight given the 5.14 year supply (an exceedance of just 53 homes).
- Biodiversity net gain – modest weight
- On site public open space in excess of requirements – moderate weight
- Economic benefits –modest weight

She felt these benefits were sufficient in this case, given the very site specific context of the scheme to outweigh the harm arising through the conflict with the development plan. On that basis, she found no conflict with the Framework and concluded that the scheme could be considered as sustainable development.

Lessons Learned:

- A 5 year HLS is a 'floor' and not a 'ceiling'
- A 5 year HLS does not mean that if an application contravenes the Development Plan it should automatically be refused; but it does mean that the plan is up to date so;
- Where there is a conflict with the Development Plan it is very important to set out what the material considerations are and what weight they attract and do the planning balance (see above)
- Sustainability of location and the facilities available weighed very heavily in her planning balance, as did a lack of 'real world' harm
- She was clear that the site specific context is of great relevance
- Securing amendments to a submitted application can be very important even when an application is being recommended for refusal. In this case significant amendments were made to the design and layout during the course of the

application at the officer's request (including a reduction in numbers) resulting in a 'better' scheme than may otherwise have been the result.

ALLOWED the appeal S/2020/0441/MAO Land at Waters Lane Middleton Cheney by Catesby Strategic Land Ltd against the refusal of planning permission for Outline planning permission for the development of up to 54 dwellings (use class C3) including means of access into the site (not internal roads), associated highway works, public open space and extended gardens to No's. 6, 8, 10, 16 Waters Lane and 15 Thenford Road. (Committee Refusal – Overturn)

Summary of Decision:

8 day public inquiry focussing on 5 year HLS, impact on spatial strategy and landscape. The Inspector found that the Council could demonstrate a 5.14 year HLS (rather than the claimed 8.26 years) so the tilted balance was not engaged and the development plan was up to date.

She found that the development was not in accordance with the development plan; nor was it in accordance with the spatial strategy. However, she found that the purpose of village confines was to direct development to the most sustainable locations in the district and that where there were opportunities to provide housing in accessible locations then weight should be given in the planning balance.

She noted that Middleton Cheney was a Primary Service Village and a sustainable settlement. She noted the range of services and facilities and public transport links to Banbury and Brackley and the proximity of the site within walking distance of those services. She found that the scale of the development was relative to the village's status in the hierarchy. She found no harm to intrinsic character or beauty of the countryside and that whilst there was a small loss of BMV agricultural land this had a very limited policy conflict.

In her planning balance she found that there were material planning considerations that outweighed conflict with the Development Plan. It is important to note these and the weight applied;

- Affordable Housing – significant weight (the council has only delivered about 51% of its affordable needs)
- Market Housing in an accessible location – “appreciable” weight given the 5.14 year supply (an exceedance of just 53 homes).
- Biodiversity net gain – limited weight
- On site public open space in excess of requirements – moderate weight
- Economic benefits – limited weight

She felt these benefits were sufficient in this case, given the very site specific context of the scheme to outweigh the harm arising through the conflict with the development plan. On that basis, she found no conflict with the Framework and concluded that the scheme could be considered as sustainable development.

Lessons Learned:

- A 5 year HLS is a 'floor' and not a 'ceiling'

- A 5 year HLS does not mean that if an application contravenes the Development Plan it should automatically be refused; but it does mean that the plan is up to date so;
- Where there is a conflict with the Development Plan it is very important to set out what the material considerations are and what weight they attract and do the planning balance (see above)
- Sustainability of location and the facilities available weighed very heavily in her planning balance, as did a lack of 'real world' harm
- She was clear that the site specific context is of great relevance
- Securing amendments to a submitted application can be very important. In this case significant amendments were made to the outline parameters during the course of the application at the officer's request (including a reduction in developable area and number of dwellings) resulting in a 'better' scheme than may otherwise have been the result.

ALLOWED the appeal S/2020/1338/FUL 5 Burcote Road, Wood Burcote by Mrs Paula Hargan against the refusal of Planning permission for new garage/office structure detached from the main house. (Delegated Refusal)

Summary of Decision:

Owing to the varied built form in the area, the garage would not appear to be unusual. In addition, views into the appeal site are limited due to the positioning and two-storey scale of the appellant's dwelling and number 4 Burcote Road, providing screening of the development.

The inspector afforded no weight to the design guide which states that garage doors for single garages should be sited under the gable end instead of under the eaves.

Whilst the development breaches the 45-degree line, of which the inspector does not afford much weight as it is not written into policy/guidance, the building is only single storey height and therefore would not result in a loss of light amenity.

3.6 Enforcement Appeal Results

DISMISSED the appeal S/2020/1719/EN Rignall Farm Barn Abthorpe Road Towcester by Mr Raymond Jones against an enforcement notice relating to, Erection of a farm office/welfare timber log cabin building and laying of hardstanding on an existing grass storage area without the benefit of planning permission.

Summary of Decision:

The Inspector acknowledged and accepted the Council's reasoning for referring to housing policies with the Local Plan Part 2; the mobile home/caravan is not a dwelling by definition but the positioning of it for residential purposes is effectively a change of use of land to residential, and so should be considered in that context in policy terms.

The Inspector concluded that there was justification to require someone staying on site at all times. They assessed the existing buildings on site, which Officers referred to in the refusal, and found that they were in use in association with the

trade/business associated with the mobile home. This is despite Brexit having now taken effect, and despite the buildings having extant permission to change use to B1 offices. The Inspector felt that the business was resilient to change and likely to remain viable.

The Inspector therefore concluded that the mobile home represented the only reasonable means of providing guardianship over the site when the applicant was away. They allowed the appeal but, in recognition of the fact that the mobile home was contrary to policy and that the applicant should ideally be using existing buildings on the site, gave the caravan a two-year temporary permission, limited its occupation to no more than six months out of any calendar year, and required the applicant to keep a record of its occupation and provide this to the Council as part of a statutory declaration within a certain time period at the start of each calendar year.

A planning application for the development was previously refused by the Council on 16 April 2019 and appeal against that decision was subsequently dismissed on 7 February 2022.

An enforcement notice was issued on the 3 September 2020 setting out the alleged breach as “Erection of a farm office/welfare timber log cabin building and laying of hardstanding on an existing grass storage area without the benefit of planning permission”

The requirements of the notice are:

- i) Demolish the timber building and remove its constituent elements from the site;
- ii) Demolish and remove from the land, the hardstanding laid, and return the land to grass

The enforcement notice was upheld with a variation by the deletion of 3 months and the substitution of six months as the period of compliance.

The assessment of the Council was reasonable and proportionate. The compliance period was amended due to the current climate, so whilst the pandemic continues, the allowance of more generous compliance periods shall be favoured.

DISMISSED the appeal S/2020/1934/EN at The Mill House Mill Lane Cogenhoe by Mr David Owen (Pure Leisure Group Ltd) against listed building enforcement notice relating to the replacement of windows without listed building consent.

Summary of Decision

The building is a Grade II Listed Building occupying a very prominent position on the entrance into the marina. It is a detached, sizeable property with a garden area to the rear of the site and parking at the side.

The original windows were removed and were replaced with double glazed units. In addition, the units were repainted in a colour that does not match with the existing lintels and is not in keeping with the character and appearance of the listed building.

The appellant appealed the notice on several grounds including that listed building consent should be granted for the replacement windows and repainting of the building.

The Inspector disagreed with the appellants comments and instead dismissed the appeal and upheld the notice. In his decision, the Inspector considered that *“there is no convincing evidence before me to suggest that the works carried out were in themselves so urgently necessary for safety and health that listed building consent could not have been applied for beforehand. Moreover, there is no evidence to suggest that works for making the windows safe or for preservation of the building could not have been achieved by way of a more minimal temporary nature while an application for listed building consent was prepared”*.

The Inspector goes on to suggest that *“Even subtle differences between historic fabric and proposed replacements can have a significantly harmful effect on the integrity and special interest of a listed building. In this regard the double-glazed timber frames, particularly the glazing bars, do not have the fine and slender detailing and profile of those that were removed. The internal gap between the two panes results in a significant and noticeable reflective ‘double-register’ property from the glass, and the internal parting bead is somewhat noticeable. Overall, they appear as overtly modern double-glazed units. Consequently, I find that these factors, taken together, harm rather than preserve the significance of the listed building, and fail to preserve its special architectural and historic interest”*.

Lessons Learned

The Council was correct to serve a Listed building Enforcement Notice to require the replacement of the windows and repainting of the building.

3.7 CIL Appeal Results

Nil

4.0 Conclusion and Reasons for Recommendations

4.1 To accept the position statement.

5.0 Consultation

None

6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members’ information only.

7.0 Implications

Financial and Resource Implications

- 7.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Legal Implications

- 7.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Risk Management

- 7.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

8.0 Decision Information

Key Decision N/A

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Stephen Clarke (Chair)

Councillor Rebecca Breese (Portfolio Holder for Planning)

Document Information

Appendix number and title

None

Background papers

None

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