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## Appeal Decision

Hearing held (virtually) on 28 July 2021

Site visits made on 18 June and 30 July 2021

**by Mr JP Sargent BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 October 2021**

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**Appeal Ref: APP/X2410/W/21/3271340**

**Land at Maplewell Road, Woodhouse Eaves, LE12 8RA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by J K Land against the decision of Charnwood Borough Council.
  - The application Ref P/20/2107/2, dated 10 November 2020, was refused by notice dated 12 February 2021.
  - The development proposed is the erection of up to 36 dwellings and associated works (access only).
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 36 dwellings and associated works (access only) at land at Maplewell Road, Woodhouse Eaves, LE12 8RA in accordance with the terms of the application, Ref P/20/2107/2, dated 10 November 2020, subject to the conditions in the Conditions Schedule below.

### Preliminary matters

2. This appeal is for outline planning permission with all matters except access reserved for later consideration. Despite this, it seems to be accepted that up to 36 dwellings, along with their associated open space requirements, could be accommodated on the land, and a possible layout showing this (the illustrative layout) was before me. I am therefore treating all details submitted other than those concerning access as being illustrative but informative.
3. As originally submitted the appellant proposed public access from the scheme to the field to the west (the adjacent field), which was identified as land in its own ownership but outside of the application site and so outlined in blue (the blue land). However, after the appeal that aspect of the proposal was withdrawn and so does not form part of my considerations.
4. This is the second appeal on the site. The first (the previous decision) sought outline planning permission for 50 dwellings and was dismissed in December 2019.

### Main Issues

5. The main issues in this case are
  - a) whether the development is in accordance with the Borough's spatial strategy;

- b) the impact of the scheme on the character and appearance of the area;
- c) its effect on the supply of best and most versatile agricultural land;
- d) its effect on non-designated heritage assets;
- e) whether the increased traffic would fail to preserve the character or appearance of the Woodhouse Eaves Conservation Area and unreasonably harm the living conditions of residents on Maplewell Road;
- f) whether infrastructure demands would be adequately addressed and
- g) if any harm would be caused, whether this would significantly and demonstrably outweigh the benefits of the scheme (the Planning balance).

## **Reasons**

### ***Planning policy***

6. The development plan includes the *Charnwood Local Plan 2011 to 2028 Core Strategy* (the Core Strategy) and the saved policies from the *Borough of Charnwood Local Plan 1991-2006* (the Local Plan).
7. However, the *Woodhouse Parish Neighbourhood Plan 2020-2036* (WNP) is at a very advanced stage of preparation. It has been through its examination and the Council has published decision statements to hold referenda on the Neighbourhood Plan at the end of October. Therefore, while not yet part of the development plan, it can nonetheless be given significant weight in the decision-making process insofar as it is a material consideration.

### ***The effect on the spatial strategy***

8. In Policy CS.1, the Core Strategy identifies the Leicester Principal Urban Area and the towns of Loughborough and Shepshed as the major focus for housing, with further housing to be in a third tier of Service Centre settlements. Beneath this, a number of 'Other settlements' (including Woodhouse Eaves) form the next tier down in the hierarchy. In these, the policy appears to provide 2 circumstances where housing will be acceptable.
9. The first is through small-scale opportunities within the defined limits to development. However, the appeal site lies outside of, albeit adjacent to, the built-up extent of the village. Therefore, given its size and the guidance in the policy's supporting text, I consider it cannot be seen to comply with this circumstance.
10. The second circumstance is by providing for at least 500 new homes within settlement boundaries of the 'Other Settlements', with those boundaries to be identified in what was to be a forthcoming *Site Allocations and Development Management DPD* (the DPD). The reason given for this allocation was to protect and, where possible, increase services within such settlements, and to meet local needs. No such DPD has been produced or indeed is going to be. However, the Local Planning Authority accepted that, although the site was outside of the defined Limits to Development that are found in the Local Plan, this aspect of Core Strategy Policy CS1 could potentially be applicable as the policy concerned the settlement as a whole. Provided such housing could be said to be focussed on the settlement of Woodhouse Eaves this seems a

reasonable approach. This is because there is likely to be little opportunity within the defined Limits to Development of this or any of the rest of the 'Other Settlements' to accommodate such a level of provision over-and-above the small-scale opportunities identified in the policy's first circumstance. Balanced against this the Parish Council referred to new housing that had been accepted elsewhere in the Parish, but to my mind this new housing was away from the settlement and so was not subject to this policy.

11. Although well over 500 houses have been built during the plan period in the 'Other Settlements', the vast majority of these were in just a few of those settlements. Moreover, they appeared to have been permitted at a time when the Local Planning Authority was unable to demonstrate a 5-year housing land supply, and so were to address a Borough-wide need. I therefore anticipate that they did not fall under Policy CS.1, but may well have been allowed under section 38(6) of the *Planning and Compulsory Purchase Act* (s38(6)) following the identification of a development plan conflict. Putting those schemes aside though, on the evidence submitted it appears that the number of dwellings approved during the plan period under this second circumstance of Core Strategy Policy CS.1 has significantly exceeded the minimum figure of 500.
12. The appellant said the houses now before me were to address an unmet need in the village and to re-balance housing across this tier following its uneven distribution to date. To support this contention, the appellant drew upon the Housing Needs Survey undertaken in connection with the WNP, which, it considered, had not been met in the emerging neighbourhood plan. Although there has been some in-fill development allowed there are currently no allocated sites in the adopted development plan in the village of Woodhouse Eaves, and I understand that no affordable demand has been delivered.
13. While the requirement for 500 dwellings in the Other Settlements is a minimum rather than a maximum amount, it nonetheless seems reasonable that the overall level of provision under that circumstance should have some regard to that figure. The housing provision in Core Strategy Policy CS.1 does not state how this minimum of 500 dwellings should be distributed among the 'Other Settlements' beyond the broad aims of meeting local needs and assisting services. As such, to my mind 'balancing up' any uneven distribution of housing across these 'Other Settlements' does not necessarily mean compliance with the policy. Given the size of the proposal before me relative to the village, even if I took account of the findings of the Housing Needs Survey I am not satisfied that this scheme would just address the local needs of Woodhouse Eaves.
14. Furthermore, a key driver behind Core Strategy Policy CS.1 seems to be the need to create sustainable communities, by focussing development on places best equipped to accommodate it. As part of this there is an awareness that the services provided in the 'Other Settlements' are limited in their nature and extent, which is why they are identified for relatively little housing.
15. Despite the distances involved and the gradient of Maplewell Road, I consider many residents at this scheme could walk to the services and facilities available in the village. Despite this, they would probably need to travel further afield to employment, shopping, education, most leisure activities and elements of health care, whilst the bus service through the village is limited in nature. The presence of these 36 more dwellings is therefore likely to increase reliance on

the private motor vehicle still further. Consequently, the development would run contrary to the overall aims of the spatial strategy.

16. For these reasons I therefore find that the scheme would conflict with Core Strategy Policy CS.1.
17. On this point it was contended there was no capacity for extra pupils at the village school, even if appropriate financial contributions were made. As a result, children would have to be taken elsewhere, thereby increasing journeys. There was little evidence to support this, but if it is correct it would exacerbate the harm from reliance on the private car still further.
18. Local Plan Policy CT/1 restricts development outside its defined Limits to Development to specific types that do not include the proposal. The scheme would therefore conflict with this policy, and as it is not acceptable in principle outside defined Limits to Development, Local Plan Policy CT/2 is not relevant.
19. As the site is outside of the Limits to Development in the emerging WNP, that document gives no support for housing here. Rather, WNP Policy H3 says any development would be carefully controlled in line with national and local planning policies. In this regard I therefore find it would also conflict with the WNP. In relation to this site the Limits to Development in the Local Plan accord with those in the emerging WNP and so, given the advanced state of the WNP, the age of the Local Plan and the possible changes in the intervening years in relation to the housing situation are not reasons to reduce the weight I afford to Policy CT/1.
20. Accordingly, I conclude it has not been shown that the development would meet an identified need for Woodhouse Eaves or otherwise accord with the spatial strategy in Core Strategy Policy CS.1. Moreover, it would also conflict with Local Plan Policy CT/1, and the WNP insofar as it is a material consideration.

### ***Character and appearance***

21. The appeal site currently comprises parts of 2 adjoining fields that are separated by a hedge. They lie behind a thick hedgerow on the west side of Maplewell Road with houses in the village to the north and a terrace of dwellings to the south, and the fields run up a slope towards a hilltop. The village is popular with visitors, not only because it is attractive of itself as it nestles in a pleasing landscape, but also because Country Parks are nearby, it is on the route of the long-distance circular footpath walk called the Leicestershire Round, and it sits within a wider network of public rights of way.
22. In my opinion, putting aside any debate about the status of defined settlement boundaries in the development plan, the site clearly lies outside of the built-up area of the settlement, and is prominently located at one of the entrances to the village. Approaching along Maplewell Road from the south there are streetlights, pavements and the terraced houses, while the village nameplate has been passed and the 30mph speed limit has started. Despite these points though, the fields on the appeal site and the trees opposite mean there is no perception that the built-up area has been entered and there is still a sense of being in the countryside. Similarly, travelling south there is a clear transition in character when passing 124 Maplewell Road, as the road is no longer contained between housing but rather opens up to give a more natural

landscape. Whilst such a view is restricted by the rising land on one side and the trees on the other, that in itself does not prevent it having a rural character. Therefore, the site forms part of the countryside that surrounds Woodhouse Eaves.

23. When on the road directly in front of the site, the houses in the village to the north are not particularly prominent as they are in sizeable gardens with a heavy tree cover. Furthermore, this arrangement means they are at a low density and give the settlement a soft edge that merges into the rural landscape around. Although there is some housing set back behind the frontage buildings, the informal nature of this arrangement and the fact that it is not of an appreciable scale or dominance means it does not undermine the impression of low-density development to the north of the appeal site. The terrace to the south is also visible, but this stands as a relatively isolated row of properties clearly distinct from the main built-up area of Woodhouse Eaves.
24. The site can be seen from the west when on the footpath that runs from the Broombriggs Farm Country Park (the Country Park) to Maplewell Road, and when on the footpath that runs south from that footpath along the east side of the Country Park. Again, in those views the planting in the gardens, which allows only portions of the existing housing in the village to be seen beyond, gives a soft informal edge to the settlement, while the open nature of the site itself emphasises the location of Woodhouse Eaves in the countryside.
25. Finally, when coming from the east the appeal site sits across the end of the footpath that runs up the side of 155 Maplewell Road creating an attractive visual termination to that path.
26. Therefore, I find the village integrates well into the surrounding landscape. Moreover, although the site has no recreational value or historic associations it nonetheless makes a positive contribution to this rural setting through its openness, its landscaping and what it adds to the tranquillity of the locality.
27. The erection of 36 dwellings on the land along the lines of that shown on the illustrative layout would inevitably result in built form, estate roads, small defined gardens, development in depth, increased activity and the removal of much of the hedging between the fields. Furthermore, the impact of the development would be exacerbated as it rose up the valley slope, thereby increasing the prominence of the houses behind. It was also confirmed that, to enable visibility from the 2 access points (and so forming part of the considerations on this outline application), a large stretch of the hedging along the roadside would be removed and replanted.
28. As a result, when seen from Maplewell Road, when approaching along the footpath to the east, or when looking from the footpaths to the west, the development would fundamentally change the character and appearance of the site from agricultural fields with mature hedging that played a part in containing the village, to a suburban scheme that would not only extend the village but would conflict with the existing informal low-density edge to the settlement and undermine the sense of tranquillity of the area.
29. Moreover, the development would be clearly visible from the footpaths of the Leicestershire Round and the Country Park. These routes are no doubt used by villagers and visitors alike to enjoy the beauty of the countryside. To my mind,

- the enjoyment of those walks would be diminished to some extent by the presence of this dominant and significant housing scheme in this location.
30. In this respect, I consider the principle harms are from Viewpoints 4, 5, 6, 10, 12 and 13 of the appellant's *Landscape and Visual Impact Assessment*.
  31. To assist in integrating the development into the landscape when looking from the west and north-west, the appellant is proposing extensive planting in the adjacent field. In the light of the submissions, I see no reason why this cannot be secured by condition as part of this outline application. However, although it would soften the scheme to some degree it would not conceal it totally and would not compensate for the loss of views of open countryside, but rather would still allow the rooftops of the new house to be seen in a way that was not strongly apparent in the existing adjacent housing. Therefore, it would not fully allay the harms I have identified. I appreciate too that open space is proposed around the development, but again I have no basis to consider this would enable the development to blend satisfactorily into the landscape. Although hedging is to be reintroduced to replace that lost, it would be running through a housing estate between domestic curtilages and roads rather than around fields, and so I do not accept it would retain the existing field boundary pattern or the existing rural character of the current hedging.
  32. In considering this matter I am aware that the scheme before me is for up to 14 fewer houses than were considered under the previous decision, with a consequent reduction in the depth of the development from the road. To my mind though, comparing the illustrative layouts the impact on Maplewell Road would be similar, as the hedges would be substantially reduced, and the scheme would still be apparent as a relatively dense housing estate rising up the steeper part of the fields. Like the scheme subject of the previous decision, this development too would also continue to be noticeable when looking from the footpath running to/from the Country Park and along the footpath to the side of No 155. Therefore, when compared to the previous decision the reduced numbers has not had an appreciable effect on the scheme's impact.
  33. There was also specific concern about the introduction of 2½ or 3 storey houses on the frontage close to the back of the pavement. However, the scale of dwellings lies outside of the outline matters before me and instead would be considered at Reserved Matters stage. They have therefore not had a bearing on my reasoning.
  34. Accordingly, I conclude that the development would fail to respect the character and appearance of the locality as it extended the perception of the built-up area into the wider countryside in a manner that was at odds with that of the immediately adjacent settlement. As such, it would conflict with Core Strategy Policy CS.11 which requires new development to protect landscape character and reinforce sense of place and local distinctiveness. Insofar as they are material considerations it would also conflict with WNP Policy H6 that requires development to respect and enhance the local distinctiveness and character of the area, and the *Woodhouse Eaves Design Statement*, which requires the retention of the gradual increase in density as one approaches the village and a retention of the sense of landscape.

***Best and most versatile land***

35. It is accepted that these fields fall under the definition of being best and most versatile agricultural land. Accordingly, I conclude that by taking them out of possible agricultural production in this way the development would cause harm by undermining the economic and other benefits of the best and most versatile agricultural land advocated in paragraph 174 of the *National Planning Policy Framework* (the Framework).

***Effect on the setting of non-designated heritage assets***

36. No 155 is to the east of the site on the opposite side of Maplewell Road. It is locally listed as an example of a gentleman's residence from the early 20<sup>th</sup> Century that reflects the Arts and Crafts style. It is close to the road, but its gardens lie to the east and south with the principal windows on those elevations. Indeed, few such windows look westwards towards the appeal site, with this side of the building apparently given over to service rooms.
37. The property stands away from other houses in a rural context that, to my mind, contributes to an understanding of its origins. Despite the orientation of the dwelling and the outlook from its main windows, I consider the fields of the appeal site add to this setting, as they are visible when walking along the footpath to the north of the house, they are apparent beyond the house when to the east, and they are directly opposite when No 155 is seen from Maplewell Road. As a result, the fields make a contribution to how this asset is experienced and so add to its significance.
38. Developing the fields in the suburban manner that would be likely to result from this scheme would, in my opinion, erode the contribution these fields make to the historic rural setting of this locally listed building, and so would cause harm to its significance. As such, I conclude that in this regard the scheme would conflict with Core Strategy Policy CS.14, which seeks to safeguard heritage assets.
39. I also conclude I have no reason to consider the settings of any other non-designated heritage assets would be affected by the scheme.

***The effect of traffic on the conservation area and living conditions***

40. The conservation area starts to the north between the site and the heart of Woodhouse Eaves, and encompasses the older portions of the village. Its significance is in part due to the way it includes a variety of houses and buildings of a range of layouts, ages, styles and detailing that reflect the evolution of this historic rural settlement over time, and this is apparent in its character and appearance.
41. As it runs into Woodhouse Eaves, Maplewell Road is lined mainly with dwellings. Many of these are close to or at the back of the pavement, and so when in them I accept there would be some awareness of the noise of passing traffic. A great number also rely on kerbside parking for their vehicles as they have no off-street provision. There are a number of businesses along the road as well that tend to have insufficient on-site parking and so some or all of their staff, customer and delivery vehicles would park on the street.
42. The Parish Council said that the width of the carriageway and the presence of parked vehicles meant traffic on Maplewell Road already had a great impact on

the living conditions of those adjacent and the character and appearance of the conservation area, and so any increase in vehicle movements would be unacceptable.

43. There is anecdotal evidence before me about traffic through the village, and some limited informal surveys. These, by themselves though, are insufficiently detailed to support the view that such harm would result from the development, even if a greater percentage of the appeal site's traffic used the road than anticipated by the appellant.
44. Moreover, I noted the traffic situation on each of my 2 visits, the first of which was on a wet weekday morning from 0815h for about 3 hours, while the second was on a sunny weekend afternoon. During those visits I watched the children going to the village school, I drove along Maplewell Road a number of times, and I observed deliveries at the convenience store at the end of Maplewell Road and at the Curzon Arms. Given how long I was there, the varied weather and the differing days and times of my visits, I consider that the traffic situation I saw gave a useful indication of the general situation on Maplewell Road.
45. Whilst cars are a modern intervention, in historic settlements such as this it is very common for the streets to be narrow and for there to be on-street parking due to a lack of such provision in properties' curtilages. On both visits when driving along the road I had to give way, on occasions, to on-coming traffic because the carriageway had been narrowed by parked vehicles. However, on neither visit did the traffic on the road appear to be particularly heavy. As a result, the number or nature of vehicles was not excessive or unduly intrusive, and so the character and appearance of this historic settlement could still be appreciated and its significance was still apparent. Moreover, the scale and nature of the flows meant their effect on the living conditions of those along the road was not unreasonable. Therefore, I accept that my visits represent just snapshots in time, and it is possible that on other days traffic could be greater. However, it would have to be appreciably so for me to share the concern about its impact that was identified by the Parish Council, and I have insufficient before me to find such a situation would occur.
46. Given this, even if much more of the development's traffic than anticipated by the appellant travelled between the site and the heart of the village, I consider it would not fail to preserve the Conservation Area's character or appearance or harm its significance, and it would not create a level of disturbance that would unreasonably harm the living conditions of those adjacent.
47. Accordingly, I conclude that the traffic associated with the proposed development would not cause harm to the significance of the Conservation Area and would not fail to preserve its character or appearance, and would not detract unreasonably from the living conditions of residents along Maplewell Road. Consequently, the development would not conflict with Core Strategy Policy CS.2, which aims to protect the amenity of residents, or Core Strategy Policy CS.14.

### ***Infrastructure provision***

48. One of the reasons for refusing permission was because of a failure of the appellant to address issues of open space, healthcare, education, library demand, travel, civic amenities and affordable housing. During the appeal the



Local Planning Authority considered the appellant resolved these matters through the submission of a legal obligation.

49. Given the evidence before me, I consider the contributions in the obligation towards civic amenity/library demand, open space, sustainable travel and healthcare are acceptable, as is the affordable housing delivery. As such, these elements satisfy the requirements of Regulation 122 in the *Community Infrastructure Levy Regulations 2010* (the Regulations).
50. It also appears that the proposed contribution to education provision accords with the agreed requirement. The Parish Council contended that there was no ability for the additional education facilities to be provided at the school in the village and, as it was already fully subscribed. Issues of travel are addressed above, but I see no reason why the identified monies could not be used to address the specific educational needs arising from the development.
51. Accordingly, I conclude that the development accords with Core Strategy Policy CS.24 concerning the delivery of suitable infrastructure.

### **Other Matters**

52. As it is on the edge of the countryside the site is no doubt used by wildlife, and the scheme would result in some loss in habitat as established hedgerows within acknowledged wildlife corridors would be removed. However, opportunities for compensation would exist through the provision of open space on site and on the blue land. Whilst I accept that once approved then the findings of any subsequent biodiversity surveys could not resist the scheme progressing, on the evidence submitted I am not satisfied that situation would arise. Therefore, although further detail is required on this through the Reserved Matters, I find it is not a reason to dismiss this appeal.
53. Concerning highway safety, sight splays at the entrance would be acceptable, especially as the site is within the 30mph speed limit. As stated above, I am aware that to the north Maplewell Road is used for kerbside parking. However, even if there was greater reliance on the car by the scheme's future residents and even if the road network meant more vehicles from the scheme than anticipated passed through Woodhouse Eaves, I have insufficient evidence to show that the cumulative residual impact on the highway network in and around the village would be severe.
54. Any adverse effects from noise or light pollution on the living conditions of those nearby would not be so great as to warrant refusing the scheme. There would be scope at the Reserved Matters stage to ensure there was no loss of privacy and no overbearing impact on the neighbouring houses. Whilst views from those dwellings would undoubtedly change that, of itself, is not a reason to resist a development. There is also no basis to dismiss the appeal because of its effect on flooding either on the site or elsewhere as again conditions could ensure suitable drainage was in place.

### **The Planning Balance**

55. S38(6) says development should be in accordance with the development plan unless material considerations indicate otherwise.
56. In this respect, it is accepted the Local Planning Authority now has only 3.34 years housing land supply, which falls below the requirement for a supply of 5

years. Accordingly, the most relevant development plan policies relating to the supply of housing are out-of-date, and so paragraph 11(d) of the Framework is engaged. This states that in such a situation where development plan policies are out-of-date because a 5-year supply of housing land cannot be achieved, planning permission should be granted unless one of 2 criteria apply. The first is that the application of policies in the Framework provide a clear reason for refusing the development. However, the policies in question (identified in Footnote 7 of the Framework) do not apply to this case and so that criterion is not relevant. The second is if any adverse impacts would *significantly and demonstrably* outweigh the benefits when assessed against the development plan taken as a whole (my emphasis).

57. The application of Framework paragraph 11(d) is a material consideration of great weight, that is a significant difference between the situation before me and the position the Inspector was in when considering the previous decision. At that time there was a 5-year housing land supply and so it was not necessary for him to undertake the balance found in that paragraph.
58. Paragraph 14 of the Framework was also mentioned. That concerns a situation where there is a shortfall in housing land supply but a neighbourhood plan is in place. However, despite the extremely advanced stage that the WNP has reached, as it has not yet been 'made' Framework paragraph 14 does not apply. Moreover, whilst I have noted the comments of the Examiner into the WNP concerning the status of that document against Framework paragraph 14, assessing the weight to be given in the decision-making process is a different assessment to considering the application of this paragraph. Accordingly affording significant weight to the WNP is not at odds with finding Framework paragraph 14 is not applicable.
59. With regard to the scheme's benefits, I consider a 3.34-year supply of housing sites is a significant shortfall below the requirement for 5 years, and so the provision of 36 dwellings is a benefit to which I attach great weight. Whilst the Local Planning Authority gave reasons as to why the housing land supply position has changed since the previous decision, and although it sought to offer comfort as to how it was to be addressed, it is nonetheless a shortfall that is existing at the moment and I have no certainty that it will be overcome in the near future. It was argued that as compliance with paragraph 14 of the Framework required only a 3-year housing land supply, a shortfall of this scale was not seen as a crisis by the Government and so should be viewed as 'moderate'. I am not convinced though that it is appropriate to infer such a conclusion from that paragraph.
60. In terms of the scheme's other benefits, I attach significant weight to the provision of affordable housing here, with its associated social benefits, and accept there would also be economic benefits arising from increased spending in the village to which I attach a limited amount of weight. The appellant also argued that the on-site open space would be for the enjoyment of off-site residents, but given its location on the edge of the village and the presence of other open space around, I afford this very little weight.
61. Turning to areas of harm, I have found harm and development plan conflict in relation to the spatial strategy and the character and appearance of the area, and I afford significant weight to these. There is also a loss of best and most versatile land but given the extensive nature of such land over the Borough

and the size of this site, this is not a matter to which I afford significant weight. Similarly, mindful these fields make a limited contribution to the rural setting of the non-designated heritage asset the weight I afford this is also limited, although this harm is taken into account in determining the appeal. There is therefore a conflict with the development plan. There is also a conflict with the WNP, and given its advanced stage, I afford this conflict significant weight.

62. In responding to a shortfall in housing land supply, it is common for housing to be permitted that would not otherwise accord with the development plan or the established spatial strategy, and indeed that is apparent in the wording of Framework paragraph 11(d). Such housing can often be on agricultural land in the countryside, outside of but adjacent to the Limits to Development of settlements, and give former fields a more urban appearance. It is also not uncommon for them to be further from services than the housing within the village or town. As such, any area of harm arising from these elements of the proposal, even if taken together, are not sufficient to outweigh '*significantly and demonstrably*' the scheme's benefits given the scale of the shortfall. I therefore turn to look at additional harms that may arise because of the specific scheme and its context.
63. It would result in an estate of 36 dwellings beyond the built-up area of the village, but given the size of the existing settlement I consider that is not so great a number as to be disproportionate and constitute a harm of significant weight. Although it would be a density of housing that exceeded that of the houses to the north, the presence of some development in depth and the variety in the layout of built form reduce the weight attached to this. I accept that the countryside around Woodhouse Eaves is particularly attractive, and is a valued landscape for many of those who live nearby or go there to walk. I appreciate too how it lies within an important area of the Charnwood Forest designation. I therefore attach significant weight to the harm to this specific area of countryside, although I am aware it is not subject to any of the designations in paragraph 176 of the Framework. The scheme would also impact on the enjoyment of part of the Leicestershire Round, but for a limited stretch of what is a lengthy route as one enters or leaves a built-up area, and this affects the weight I afford such an impact. Similarly, it would affect the other footpaths nearby, but this would be from limited points.
64. I accept that the shortfall in housing land supply is a Borough-wide issue and not necessarily one associated with Woodhouse Eaves. That alone though does not mean this housing should not be accepted in this village.
65. It was contended too that the proposal would undermine confidence and support for the Neighbourhood Plan process. I recognise the effort and commitment that has gone into the preparation of the WNP, and the timings involved between this appeal and the forthcoming referenda. However, even if it was 'made' there could still be decisions that did not accord with the WNP, because, while the development plan has a primacy in decision-making, material considerations can mean that in certain instances decisions are justified to the contrary. Furthermore, following the approach in paragraph 11 of the Framework does not, to my mind, undermine this development plan process. Rather that approach only becomes applicable when the process as a whole does not achieve one of its fundamental tasks, namely the provision of an adequate supply of housing land. Finally, I fully expect that the WNP delivers far more than seeking to resist development on this site alone, and so

would have a strong and useful role to play in shaping the future of Woodhouse Eaves. Therefore, irrespective of this decision, I anticipate that proceeding with the referenda and taking the WNP forward would be of great value, with it being part of the development plan once it was 'made' and, potentially, resulting in Framework paragraph 14 being applicable in certain circumstances. Therefore, I see no reason why allowing this appeal should necessarily 'derail' or 'undermine' the Neighbourhood Plan process. For these reasons, the weight I can afford this matter in the planning balance is limited.

66. Accordingly, even if I were to take all these harms together, I find they do not outweigh the benefits that derive principally from the delivery of 36 more dwellings in a Borough with a significant shortfall, and from the delivery of affordable units.
67. In reaching this view I have taken into account the numerous other decisions from the Inspectorate and the Local Planning Authority that were put before me. I am aware they pull in different directions and are invariably dependent upon the specific circumstances of the site or the housing land supply situation at that time. As such, none lead me to different findings in this case.

### **Conditions**

68. The standard conditions relating to the submission of Reserved Matters and the commencement of development should be imposed for the avoidance of doubt. Furthermore, as access is not a reserved matter, then having regard to highway safety the access points should be provided in accordance with the submitted drawing, the existing redundant accesses should be closed, and the gradient of the access should be below 1:20, though I see no reason why this gradient needs be taken from the highway edge rather than the edge of the carriageway. Having regard to highway safety there should also be details of a construction traffic management plan agreed, though the precise terms of this can be open to negotiation at the appropriate time. Given the provision of sight splays for drivers there is no need to provide further pedestrian sight splays. To assist in access to services the pavement off-site should be provided, while drainage details should be secured at the Reserved Matters stage so as to protect flooding. The condition relating to site clearance, insofar as it needs to be addressed under planning legislation, could be imposed at the Reserved Matters stage.
69. Turning to the screening to be provided on the adjacent field, there is no basis as to why, in principle, planting cannot be required by condition on the blue land if, as in this case, they accord with the necessary tests. Concern has been expressed that its long-term retention could not be secured, although I have no reason to consider that, once planted, it should be removed. Particular reference was made to the land being sold off. However, any area of landscaping, whether in the red line or outside, could be subsequently sold, and so this is not a particular issue in planning terms because it is on blue land. Moreover, in such an instance it would remain subject to any extant conditions that related to it.
70. I am mindful too that landscaping schemes, whether on developments or on land owned by the appellant adjacent to them, are invariably subject to maintenance for a limited time rather than an indefinite period. Again, I see no reason why the situation in this case needs to be different, and I consider the on-going maintenance of this landscaping for a reasonable and sufficient period

could also be secured. Therefore, I consider such a condition is reasonable in the interests of the appearance of the locality. Such a scheme should be submitted with or before Reserved Matters so as to ensure the landscaping has regard to the eventual development, while requiring the agreement of a timetable for its implementation means it can be provided at a suitable time.

71. Similarly, having regard to the need to secure a biodiversity net gain a condition for the securing and delivery of a Biodiversity Impact Assessment and Statement is justified. Again, this too needs to be submitted with or before the Reserved Matters to ensure it is suitably integrated into the development. The Council is anxious this condition and the one for landscaping on the blue land are agreed together before development commences, and to my mind their wording allows for that. It would also be for the parties to agree what topics the Biodiversity Impact Assessment and Statement should cover.
72. A Unilateral Undertaking (separate to the Planning Obligation referred to above) has been submitted to address the landscaping and biodiversity. Mindful though that the Framework says such legal agreements should only be used where it is not possible to address unacceptable impacts with conditions, I do not consider it necessary in planning terms and so does not meet the tests in the Regulations.

### **Conclusion**

73. Accordingly, for the reasons given above I conclude that the appeal should be allowed.

*Mr JP Sargent*

INSPECTOR

## CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereafter 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) No part of the development hereby permitted shall be occupied until such times as the access arrangements and visibility splays shown on Drawing ADC2469-DR-001 P2 have been implemented in full and they shall be thereafter retained. The visibility splays provided shall contain no obstruction greater than 600mm in height when measured from the adjacent carriageway, and no obstruction greater than 600mm in height when measured from the adjacent carriageway shall thereafter be within any part of the identified sight splays.
- 5) Notwithstanding the submitted information, the proposed accesses shall have a gradient of no more than 1:20 for a distance of at least 15m from the carriageway edge.
- 6) No later than 1 month after the first use of the vehicular access points hereby approved the existing access points to the appeal site shall be permanently closed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 7) No part of the development shall be occupied until the offsite works shown on Drawing ADC2469-DR-001 P2 have been implemented in full.
- 8) No development shall commence until a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority, together with a timetable for its application and provision. The development shall then be undertaken in accordance with the approved plan and its approved timetable.
- 9) With or before the submission of the Reserved Matters, details of a drainage scheme shall be submitted to the Local Planning Authority for its approval in writing, and the development shall then be implemented in accordance with the approved drainage scheme.
- 10) With or before the submission of the Reserved Matters, a detailed Landscape Strategy for the field to the west (the blue land), together with a timetable for its implementation and an associated Maintenance Strategy shall be submitted to the Local Planning Authority for its approval. The approved Landscape Strategy shall be implemented in accordance with the approved timetable and thereafter maintained in accordance with the approved Maintenance Strategy.
- 11) With or before the submission of the Reserved Matters a Biodiversity Impact Assessment and Statement shall be submitted to the Local Planning Authority for its approval in writing, and the development shall

then be implemented in accordance with the recommendations of the approved Biodiversity Impact Assessment and Statement

## **APPEARANCES**

### FOR THE APPELLANT:

Michael Robson                      Agent  
Richard West                         Agent

### FOR THE LOCAL PLANNING AUTHORITY:

Deborah Liggins                      Senior Planning Officer (Development Management)  
Nola O'Donnell                        Senior Landscape Officer  
Simon Smith                            Solicitor  
Seb Wilkins                             Senior Planning Officer (Plans, Policies & Place Making)

### INTERESTED PARTIES:

Lizzie Marjoram                        Woodhouse Parish Council  
Cathy Schou                             Woodhouse Parish Council

## **POST-HEARING DOCUMENTS**

### FROM THE APPELLANT

Email to the Planning Inspectorate concerning the Unilateral Undertaking dated 5 August 2021  
Email to the Planning Inspectorate concerning the Unilateral Undertaking and Post Hearing comments dated 19 August 2021  
Email to the Planning Inspectorate concerning the Inspector's suggested conditions dated 23 September 2021

### FROM THE LOCAL PLANNING AUTHORITY

Policy CS24 from the *Core Strategy*  
Email to the Planning Inspectorate concerning the Blue Land and the Unilateral Undertaking dated 29 July 2021  
Email to the Planning Inspectorate concerning the WNP dated 16 August 2021  
Email to the Planning Inspectorate concerning the WNP dated 25 August 2021  
Email to the Planning Inspectorate concerning the Inspector's suggested conditions dated 28 September 2021

### FROM THE PARISH COUNCIL

Email to the Planning Inspectorate concerning the Blue Land and the Unilateral Undertaking dated 29 July 2021  
Email to the Planning Inspectorate concerning the Unilateral Undertaking and Post Hearing comments dated 20 August 2021  
Email to the Planning Inspectorate concerning the Inspector's suggested conditions dated 24 September 2021