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## Appeal Decision

Inquiry held on 4, 5 and 6 June 2019

Site Visit made on 5 June 2019

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

**Decision date: 6<sup>th</sup> September 2019**

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**Appeal Ref: APP/R1038/W/18/3216245**

**Land East of Little Morton Road, North Wingfield, Derbyshire**

- 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 Mr David Wilson, Mr William Wilson and Zafeen Ltd against the decision of North East Derbyshire District Council.
  - The application Ref 18/00505/OL, dated 17 May 2018, was refused by notice dated 4 October 2018.
  - The development proposed is residential development of up to 265 dwellings and associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved apart from access. That is the basis on which the Council made its decision and therefore the basis on which I have determined this appeal.
3. The description in the heading above is taken from the application form. It was confirmed at the Inquiry that the description had changed during the application to remove the reference to "up to 265 dwellings" prior to the Council's decision. I have therefore determined the appeal on the basis that outline planning permission is sought for residential development and associated infrastructure.
4. A revised version of the parameters plan (Ref: 2017-504-36) was submitted to the Council before the decision was made. The Council confirmed at the Inquiry that it was the August 2018 dated plan on which the application was determined. I have therefore proceeded on that basis. It was confirmed at the Inquiry that, with the exception of the parameters plan, the site location plan and the highway plan (Ref: P14-398/501/B), that all other plans are for illustrative purposes.
5. I made an unaccompanied site visit the day before the Inquiry opened. I also made a part accompanied and part unaccompanied site visit on the second day of the Inquiry. I visited the appeal site, viewed it from Little Morton Road and from the public right of way network on and adjacent to the site in the presence of the parties. I thereafter continued my visit unaccompanied taking in the wider public right of way network and observing the site from several of the viewpoints put forward by the parties.

6. I received a signed Statement of Common Ground on 18 April 2019 and an agreed statement in respect of housing land supply dated 30 May 2019.
7. A completed Section 106 agreement was submitted to the Inquiry on the opening day<sup>1</sup>. It was agreed at the Inquiry that, due to discrepancies in the figures for the financial contributions contained therein, the appellant would be given one week following close of the Inquiry to provide an executed copy of a deed of variation. A signed and completed deed of variation was received by the Planning Inspectorate on 11 June 2019<sup>2</sup>.
8. Prior to opening, the appellant provided extracts from the North East Derbyshire Housing Needs Market and Affordability Study March 2012<sup>3</sup> and the Strategic Housing Market Assessment Update 2017<sup>4</sup> for inclusion within the Core Documents list for the Inquiry. No objection to their addition was raised and I have therefore taken the documents into account.
9. Examination in public of the North East Derbyshire Local Plan (2014-2034) Publication Draft February 2018 (the DLP) is ongoing. Given the stage of preparation, the Council's witness had indicated within his proof of evidence that the DLP would attract significant weight.
10. Nonetheless, I heard at the Inquiry that, following the Examination in Public hearings and having received recommended modifications from the Inspector, the Council wished to review matters surrounding the DLP. No timescale was been given for that review nor the full scope of what it will mean for the contents of the DLP. The Council indicated at the Inquiry that, as a consequence, only moderate weight could now be afforded to the DLP.
11. Clearly differing views were put to me at the Inquiry regarding the potential progress of the DLP. However, to my mind that only serves to emphasise the current uncertainty of the plan's progress. That uncertainty and lack of clarity about the DLP means the weight I can afford to its policies based on its stage of preparation or the extent to which there are unresolved objections<sup>5</sup> is, at best, very little for the purposes of this appeal.
12. Moreover, whilst the DLP process has indicated that the Council is unable to demonstrate sufficient housing supply beyond the initial five-year period, on the basis that the housing requirement within the DLP is proposed to be higher than the existing objectively assessed need, having regard to the status of the DLP and the limited weight I afford to it, the contribution of the development towards any undersupply beyond the five-year period is limited in its benefit.
13. Following close of the Inquiry, a number of changes were made to the Planning Practice Guidance including to the guidance relating to the Effective Use of Land, Housing Needs and Housing Supply and the Natural Environment. The main parties have been given the opportunity to comment on these changes and I have taken the comments into account in reaching my decision.

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<sup>1</sup> ID1

<sup>2</sup> ID24

<sup>3</sup> CD16

<sup>4</sup> CD17

<sup>5</sup> The Framework – paragraph 48(a) and (b)

## Background and Main Issues

14. The application was refused on two grounds. In its written submissions, the Council indicated that, in light of recent appeals in the District at Deerlands Road, Wingerworth<sup>6</sup> and Mansfield Road, Winsick<sup>7</sup>, it no longer sought to defend its first reason for refusal in respect of the location of the appeal site outside of the Settlement Development Limits (SDLs) as defined in the North East Derbyshire District Local Plan 2001-2011<sup>8</sup> (the LP).
15. In addition, the parties reached an agreed position prior to the Inquiry in respect of the matter of whether or not the Council was able to demonstrate a five-year supply of housing land<sup>9</sup>.
16. Therefore, I consider the main issue in this appeal to be the effect of the proposal on the character and appearance of the area.

## Reasons

17. The appeal site lies within the Natural England National Character Area 38 – the Nottinghamshire, Derbyshire and Yorkshire Coalfield (the NCA)<sup>10</sup>. Some of the key characteristics of the landscape are small, fragmented remnants of pre-industrial landscapes and more recent creations of semi-natural vegetation, including woodlands, river valley habitats and subsidence flashes, with field boundaries of clipped hedges or fences. The NCA identifies overall field sizes and patterns as variable reflecting medieval clearance from woodland with the piecemeal enclosure of medieval strip fields. It goes on to say that there are some areas where those field patterns remain intact, with thick hedges including oak and ash hedgerow trees.
18. At a regional level, the East Midlands Regional Landscape Character Assessment 2010 (the EMRLCA)<sup>11</sup> locates the appeal site within Landscape Character Area (LCA) 9a – Settled Coalfield Farmlands, which is characterised by landforms of low hills and shallow. This is a landscape, as identified by the LCA, where mining activities and industrial uses have dissected a diverse history of enclosure and variable field patterns, resulting in isolated blocks of land surrounded by urban and suburban settlements.
19. At a local level, Derbyshire County Council's the Landscape Character of Derbyshire (4<sup>th</sup> Edition) 2014 (the LCD)<sup>12</sup>, locates the appeal site within the Coalfield Village Farmlands Landscape Type (LT). The LCD identifies the key characteristics of the LT include gently undulating landforms, dairy farming with pasture and localised arable cropping, dense watercourse trees and scattered hedgerow trees, and towns and villages on ridge lines surrounded by remnant medieval strip fields. In assessing the characteristics of this landscape, the LCD identifies medieval strip fields as a distinctive and prevalent landscape type. It identifies visually prominent medieval strip fields on the fringes of many villages, most notably at North Wingfield where the appeal site is located, as well as at Pilsley and east of Shirland.

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<sup>6</sup> APP/R1038/W/17/3192255

<sup>7</sup> APP/R1038/W/17/3182428 & APP/R1038/W/17/3190910

<sup>8</sup> CD4

<sup>9</sup> Statement of Common Ground in Respect of Five Year Housing Land Supply – 30 May 2019

<sup>10</sup> CD9

<sup>11</sup> CD10

<sup>12</sup> CD11

20. The Council's Historic Environment Study: 2, The Transitional South November Final Draft 2012<sup>13</sup> (the HER), identifies that there are pockets of historical interest including small areas that retain ancient fossilised strip systems. The appeal site lies within the ancient enclosure fossilised strip systems classification. Page 29 of the document states that larger areas of the land under this classification can be found in the south of the area around Shirland and Higham and, more pertinently to this appeal, to the east of North Wingfield. These fossilised strips are defined narrow parcels of land, enclosed by boundaries, each with a distinctive narrow shape.
21. Subsequent to the HER, the Council is undertaking an update to the HER which is incomplete. Nevertheless, the Derbyshire Historic Landscape Characterisation 2016 shows that the appeal site forms part of the remnant fossilised strip fields historic landscape character type in the parish of North Wingfield.
22. I am unpersuaded by the appellant's claim that the Council has sought to elevate the national, regional and local landscape character assessments into something akin to a policy test. Rather, it seems to me the Council has correctly relied on a substantial body of landscape evidence to inform their assessment of landscape impact against the relevant policy tests set out in the LP. Whilst naturally, the documents referred to above do not carry the weight of development plan policy, I find there to be little inappropriate with such an approach. Indeed, in the absence of an alternative evidence base before me, that is the basis on which I have considered this appeal.
23. The appeal site lies within the open countryside to the east of North Wingfield. The land to the east is characterised by a series of shallow valleys and low ridges. The topography rises towards the north, east and south of the village. The Locko Brook which runs east-to-west, and its tributary which runs north-to-south, permeate through the valley, with the surrounding high land defining its catchment. To the east of North Wingfield, the land is largely free of built form. Nevertheless, the presence of settlements, most notably to the north and south, is apparent. There is a well-developed series of public footpaths which traverse the landscape in several directions. That footpath network provides an accessible, tranquil experience which, despite its reasonably close distance to the settlement, I found to be largely absent of substantial aural and visual urban influence.
24. The appeal site and its surroundings exhibit many of those characteristics identified in the character assessments at a national, regional and local level. It comprises five agricultural fields and a vegetated corridor of land which encloses the Lock Brook Tributary on the eastern part of the site. The western, northern and southern boundaries are clearly defined by field boundaries. It is evident that there has been a partial loss of the field pattern in the southern part of the site as identified by the parties. Nevertheless, despite there being gaps in some hedgerows, the field pattern is clearly legible on the ground and in the wider landscape because grasses have grown in height where there are gaps. The hedgerows also contain several mature ash trees. I thus found the site to be a well-preserved example of the fossilised medieval strip systems.
25. The appellants suggest that the appeal site has a degree of urban character, most notably because of its proximity to the existing settlement and because of

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<sup>13</sup> CD12

the electricity pylons which cross the site's eastern flank. However, there is a clearly defined boundary formed by the rear of the gardens on Little Morton Road. I saw from my visit that many of these have been softened by dense vegetation and trees. Coupled with the open nature of the appeal site, its open aspect to the rising land to the east, the trees, hedgerows and vegetation that form part of it and its accessible network of public rights of way, I found the character of the site to be clearly one of open countryside. There is a definitive and clear change in character when you move from Little Morton Road into the appeal site, as if moving from an urban environment to a rural one without any degree of transition. I am therefore unpersuaded by the appellant's witness that it is not until you have crossed the site and gone beyond the tributary that you feel as if you are in countryside.

26. Moreover, whilst pylons can appear dominant and at odds with the gentler scenic qualities of the countryside, as the Council pointed out at the Inquiry, they are infrequently found in urban areas. Indeed, pylons are an intrinsic presence in the countryside and their presence here does little to dissuade me that the appeal site's character is wholly one of open countryside, and not semi-rural or urban fringe as suggested by the appellant.
27. I recognise that it is no part of the Council's case that the remnant medieval fossilised strip fields ought to be characterised as a non-designated heritage asset for the purposes of paragraph 97 of the National Planning Policy Framework – February 2019 (the Framework)<sup>14</sup>. Nevertheless, it is entirely possible that historical features will play some role in defining landscape character. I see no conflict between the Council's arguments around the importance of historical features to the value of the landscape, and lack of argument that those features are in themselves heritage assets. The two matters are separate judgements.
28. It is clear that the appeal site lies within a settled landscape. Moreover, development in the District is notably constrained by the Peak District National Park, Special Landscape Areas and Green Belt. The site does not lie within a valued landscape which are to be protected and enhanced under paragraph 170 of the Framework. That much is agreed by the parties. Nevertheless, that does not mean that the landscape here is of no value.
29. The development would result in the introduction of a significant number of new two and two-and-a-half storey houses with garages, roads, fences, walls and hard landscaping. Whilst the parameters plan shows areas of green space, the development would have a significant urbanising effect, introducing substantial built form into a part of the landscape which has for many years been free of built form.
30. In addition, the development, including formalised areas of open space, would cover the entirety of the site. Whilst I note that the hedgerows would be retained within the development and gapped up where needed, the legibility of the actual field pattern would be lost. The hedgerows would no longer act as separators of fields, instead, they would be soft landscape features within an urban housing estate. This would be an irretrievable and irreplaceable loss of land which exhibits many key features of the landscape identified in the national, local and regional landscape assessments.

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<sup>14</sup> CD1

31. It was put to me at the Inquiry that the development of the appeal site would result in a loss of around 5-10% of the total local landscape character type in North East Derbyshire and, at a county level, around 0.03%. However, I am satisfied that the appeal site is a well preserved and legible example. In turn, the development would result in the loss of around one quarter of the entire remnant fossilised strip fields landscape character type in the Parish of North Wingfield. It is clearly a distinctive feature locally and, as such, its loss is contrary to policy.
32. Furthermore, the ability to access the landscape here freely, without the need for motorised transport, only serves to increase the value of the appeal site, with footpath 19 in particular offering a clear and easy route from the urban into the rural. It was apparent from my site visits that the footpath network is well used and the evidence I heard from local residents at the Inquiry suggests it is highly valued. The development would result in users of the footpath network having a noticeable change in their experience. Essentially, they would be moving through an urban environment.
33. The appellant suggests that the development will aid the management of the vegetation that encloses the Locko Brook tributary on the eastern part of the site. Nevertheless, I have been given little compelling evidence as to why that vegetation needs to be managed. Indeed, it seems to me that such management would not be a benefit and would, at best, be neutral, on the basis that it is presently unmanaged and makes a positive contribution to the landscape character. Furthermore, the proposal would result in the loss of some of the ash trees within the hedgerows. Whilst some of these have been identified as being in poor condition, others have estimated lifespans of up to 20 years.
34. The development would involve the provision of substantial areas of public open space and green infrastructure. Around one third of the site would be given over to it. That would lessen the degree of harm in comparison to a scheme which had little or no landscaping provision. However, there is little before me regarding the quality of that landscape and whether it could adequately replace that which has been lost. In any event, it seems to me that introducing formalised areas of public open space within the site would be at odds to the character of the landscape here.
35. Moreover, that amount of green infrastructure is not wholly new. The site boundary extends beyond the east of the brook, where no development is proposed. The appellant has offered the provision of public open space adjacent to the tributary as a benefit. However, the brook and the surrounding footpath network already comprise public open space. The development will have the effect of bringing built form closer to the brook, increasing pressure on its condition and the use of the public right of way network which runs alongside it. Thus, the green infrastructure and landscaping measures would not, in my view, be a benefit of the proposal.
36. Much was made at the Inquiry regarding the issue of separation. Nevertheless, whilst the appeal site does not lie within a Local Settlement Gap, it seems to me that the development would visibly decrease the sense of separation between North Wingfield and Lower Pilsley, particularly when viewed from the south and east.



37. Furthermore, when viewed from several vantage points in the surrounding landscape, the development would have the effect of extending the envelope of North Wingfield, encroaching onto the countryside which encloses the settlement and appearing as an incongruous and discordant addition to the landscape. The site would not be a natural rounding off or logical extension to the settlement. Rather it would have the effect of increasing the hard boundary between the settlement and the countryside and the incursion of built form into it. I do not agree with the appellant's landscape witness that the development would achieve a more appropriate transition from the urban to the rural. Thus, the proposal would have the effect of significantly reducing the positive role the land to the east of North Wingfield plays in characterising the wider landscape.
38. Overall, I find the loss of the existing field pattern, the substantial urbanising effect the development would have and the encroachment of the built form of North Wingfield into the countryside which surrounds it, would be substantially harmful to the character of the landscape and the visual qualities of the area.
39. I conclude, therefore, that the development would have a substantial harmful effect on the character and appearance of the area. It would, as a consequence, conflict with Saved LP Policies NE1 and NE7 which state that the varied and distinctive landscape character of the District should be conserved and/or enhanced; that development proposals that result in the loss of distinctive features that contribute towards and add value to the landscape character of an area will not be permitted; and, that planning permission will not be granted for development that would have a direct or indirect detrimental effect on important hedgerows or trees that make a significant contribution to the character or amenity of the area.
40. It would also conflict with Saved LP Policy GS1 which sets out that all development is to have regard to, amongst other things, contributing towards achieving a sustainable pattern of development. It seeks to do this by ensuring that all development proposals will be located within the defined SDLs; make full use of previously developed land before greenfield sites; be well related to public transport, services and facilities; and, protect and conserve the quality of the area's natural and cultural assets. In addition, there would be conflict with Saved LP Policy GS6 which relates to new development in the countryside. It only permits such development where it is for an operation of a use appropriate to such a location; is in keeping with the character of the countryside; causes minimal disturbance to farming and loss of agricultural land; does not require new infrastructure provision; causes minimal environmental impacts; and, is not a prominent intrusion into the countryside.
41. The development would also conflict with paragraph 170 of the Framework which seeks to ensure that decisions contribute to, and enhance, the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

### **Other Matters**

42. Paragraph 11 of the Framework states that decisions should apply a presumption in favour of sustainable development. For decision taking, this is either (c) approving development proposals that accord with an up-to-date development plan without delay; or (d) where there are no relevant development plan policies, or the policies which are most important for

determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The titled balance can also be engaged, and those policies considered to be out-of-date if, as set out in footnote 7 of the Framework, the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

43. The development plan for North East Derbyshire comprises the LP. Given the end date of 2011, the parties agree the LP is time-expired. I see no reason to disagree. Nonetheless, that does not necessarily mean it is out-of-date. As set out in my reasoning on the main issue, Saved LP Policies GS1, GS6, NE1 and NE7 are the most important policies for determining the appeal. I have found that the development would conflict with those policies.
44. Having regard to paragraph 213 of the Framework, due weight is to be given to the policies within the LP according to their degree of consistency to those of the Framework. That is not to say the policies can be disregarded, but that the weight to be attributed to any conflict with those policies is reduced if they are found to be inconsistent with the Framework.
45. It is common ground between the parties that Policies NE1 and NE7 are not out-of-date. The policies are, in my view, consistent with the aim of the Framework to ensure that decisions contribute to, and enhance, the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.
46. Turning to Saved LP Policy GS1, the Council argued at the Inquiry that, whilst the requirement for development to be located within the defined SDLs was inconsistent with the Framework, the policy, when read as a whole, is to be regarded as not out-of-date.
47. However, such a position contrasts to the findings of the Inspector in the Deerlands Road appeal who found LP Policy GS1 to be out-of-date. I note the Council's point that the Inspector did not need to grapple with the question of landscape impact in respect of that appeal. However, that has little implication for the question of whether or not the policy is consistent with the Framework.
48. Moreover, the fact that the Council no longer seeks to defend its opposition to the development on the basis of its location outside of the SDLs does not mean that one can simply set aside the first test of Policy GS1, that being that development should be located within the SDLs. The policy is to be read as a whole and it is not open to the decision maker to omit parts of it simply because they consider it to be irrelevant. I find the appellant's closing argument to that effect more persuasive.
49. As it is, the first test of Policy GS1 (sub paragraph (a)) includes a requirement for exceptional circumstances to be demonstrated for development outside of the SDLs. This is not a facet of national policy other than within Green Belts. Although the requirement for development to be located within SDLs is not in itself inconsistent with the Framework, the parties agree here that the SDLs in North East Derbyshire are time expired and out-of-date for the purpose of this



appeal. That leads me to conclude that first test of LP Policy GS1 is inconsistent with the Framework.

50. In cross-examination, the Council's witness argued that LP Policy GS6 is not 'completely' inconsistent with the Framework because it does not place a blanket restriction on all development in the countryside, and it intrinsically acknowledges the importance of countryside as set out in the Framework. However, LP Policy GS6 is formulated on the basis of the SDLs. Countryside, for the purpose of the policy, is held in the supporting text to be the area outside of the SDLs. The Council accepts those SDLs to be out-of-date.
51. I accept the point that the Secretary of State's Saving Direction for the LP does not extend to the supporting text. However, the plan is to be read as a whole. The fact that one is left to interpret the meaning of the term 'countryside' within GS6 without direction from the policy or the plan, only serves to suggest the LP is no longer of sufficient consistency with national policy. There is no basis within the policy for the Council's view that, in the absence of a definition, countryside ought to be determined by an assessment of the land's character.
52. Ultimately, whilst the Deerlands Road and Winsick decisions were issued several months ago, there is nothing before me which has arisen in that time which suggests that more weight ought to be afforded to the same policies which each of the Inspectors accepted to be out-of-date. As a result, I am led to find LP Policies GS1 and GS6 are inconsistent with those of the Framework and out-of-date.
53. Nevertheless, the main issue for determination in this appeal is the effect of the development on the character and appearance of the area. Policies NE1 and NE7 principally deal with landscape impact, in contrast to Policies GS1 and GS6 which, whilst containing landscape matters, are more rounded in their approach to the location of housing. I find therefore that, taking into account all four policies, overall, the most important policies for determining this appeal are not out-of-date by reason of inconsistency with the Framework.
54. That then raises the question as to whether those policies are out-of-date on the basis that the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. A roundtable session was held at the Inquiry on the matter of housing land supply. The Council's position is that it is able to demonstrate a 8.6 year supply of deliverable housing land. The appellant does not disagree with the Council's methodology in how its requirement is calculated but does take the view that the deliverable supply is lower than the Council suggest. Nevertheless, even in the event the appellant's assumptions regarding delivery are correct, the supply would still, at worst, be 7.4 years. The Council is therefore able to demonstrate a housing land supply considerably in excess of the five-year requirement set out in the Framework.
55. As a consequence, I find the policies which are most important for determining the application are not out-of-date and, therefore, the 'tilted balance' set out in paragraph 11(d) of the Framework is not engaged.
56. The ability to demonstrate five years worth of housing land should nevertheless not be taken as setting a ceiling on housing delivery. The provision of housing is a benefit in light of the Framework's requirement to significantly boost the

supply of homes. Nevertheless, with, at worst, a 7.4 years supply of housing land, that benefit is limited.

57. The Inspector in the Deerlands Road decision described the need for affordable housing in the District to be acute. The parties agreed at the Inquiry that remained the case, with the Council not disputing that past delivery rates have been short of the need. The District need is 172 affordable units per annum. There was a variation in the figures put to me at the Inquiry, with annual delivery rates varying between 55 and 71. Either way, it is clear that there is a considerable shortfall against the need and that will continue to be the case.
58. The development would deliver up to 78 affordable dwellings based on a 30% delivery rate. Affordable rent and intermediate shared equity would amount to 20% of the total dwellings with 10% for starter homes and discounted market sale housing. Whilst I note the Council indicates the greater need is for social and affordable related housing, the affordable provision here will accord with the definition for affordable housing in Annex 2 of the Framework. The contribution to affordable housing is a benefit of the scheme to which I afford substantial weight.
59. There would be benefits to the local economy as a result of jobs provided through construction and spending in the local area. I afford such benefits moderate weight given the scale of the development.
60. The parties agree the appeal site is reasonably accessible to local facilities and services, with good public transport links to the wider District, including to Chesterfield. I see no reason to disagree. Nevertheless, the lack of harm in respect of the sustainable location of the site is of limited weight as a benefit.
61. Substantial concern was raised at the Inquiry from local residents regarding the effect the traffic generated by the development would have on highway safety on Little Morton Road and the surrounding network. I recognise the development would increase the number of vehicles using the surrounding highway network. However, it was indicated at the Inquiry that the Local Highway Authority has raised no objection to the principle of residential development at the appeal site. The surrounding highway network has adequate capacity to accommodate the development, subject to junction improvements at Little Morton Road and St Lawrence Road which can be secured by condition. I am satisfied therefore, that the development would not result in severe congestion or highway safety impacts.
62. I heard from several residents at the Inquiry regarding the potential impact of the development on ecology and biodiversity. However, having regard to the Phase 1 Ecology Survey, the species specific surveys and the additional ecology work undertaking at the application stage, I am satisfied that such impacts could be satisfactorily mitigated by the use of conditions.
63. Local residents indicated at the Inquiry that there are existing problems in the area in relation to surface water run-off. Whilst I have had regard to their concerns, there is no technical evidence before me to support the view that the development would worsen the existing position. Surface water from the site would drain away from the houses on Little Morton Road.
64. The appeal site lies south-east of the North Wingfield Conservation Area (the CA), the Grade II listed buildings of The Manor House, St Lawrence, Old Cross

and the White Hart Inn on St Lawrence Road and to the east of the site the Grade I listed St Lawrence Church with its Grade II listed urinal, railings, gate piers and bollards. No concerns have been raised by the parties regarding the effect on the significance of heritage assets and I have no reason to conclude otherwise. Given the visual and physical separation of the appeal site from heritage assets, I am satisfied that the development would preserve the character and appearance of the CA and the setting of the listed buildings.

### **Planning Obligations**

65. A signed and completed S106 unilateral undertaking has been submitted by the appellants. Following a discussion at the Inquiry regarding discrepancies in the figures contained in the undertaking, a deed of variation to the agreement was submitted after close of the Inquiry<sup>15</sup>.
66. The undertaking would secure financial contributions towards the creation of additional teaching and learning spaces project at North Wingfield Primary and Nursery School (£3237.53 per each dwelling over 80 dwellings) as well as the creation of additional secondary (£3681.76 per dwelling) and post 16 (£1597.18 per dwelling) teaching and support spaces at Tupton Hall School. There would be a financial contribution to the NHS towards the provision of increased capacity and infrastructure at St Lawrence Road Surgery and North Wingfield Medical Centre. It would also make provision for on-site play facilities, public open space and secure the aforementioned 30% affordable housing provision.
67. Saved LP Policy GS9 states that the Council will seek infrastructure through Section 106 obligations that are necessary and required for the development to proceed. The Council has produced a detailed Compliance Statement which demonstrates how the obligations meet the relevant tests in the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010. In respect of the education contributions, it sets out the County Council's calculations for the figures and the NHS calculations are set out for the healthcare contributions. The contributions would all be used to facilitate specific infrastructure works at education and healthcare providers in the vicinity of the appeal site.
68. The development would result in an enlargement of the local population with consequent impacts on local schools and healthcare services. As such, I am satisfied that the education and healthcare contributions are necessary to make the development acceptable in planning terms, they directly relate to the development and fairly and reasonably relate in scale and kind to the development. They therefore meet the relevant tests in paragraph 56 of the Framework and the CIL regulations.
69. Saved Policy H6 of the LP seeks to secure affordable housing provision. The Framework states at paragraph 62 that, where a need for affordable housing is identified, policies should specify the type of affordable housing required and expect it to be met on site. The development would make provision for 20% of the homes built out on the site to be split between affordable housing for rent and intermediate shared ownership.

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<sup>15</sup> ID24

70. Paragraph 64 of the Framework makes clear that, where major development of housing is proposed, decisions should expect at least 10% of the homes to be available for affordable home ownership. In light of that, the development would deliver a further 10% of the total number of dwellings as starter homes or discount market sales housing. Both parties agree therefore that the contribution would be suitable in this instance. I see no reason to come to an alternative view. I am satisfied therefore that the proposed affordable housing contribution would meet the tests of Framework paragraph 56 and CIL Regulation 122.
71. Saved LP Policy R5 requires the provision of children's play space on site for developments of 10 or more dwellings. The submitted obligation indicates that, at the reserved matters stage, part of the site will be made available for recreation to the general public, including a multi-use open space area and neighbourhood area for play. The obligation commits to submit a public open space management scheme to the Council prior to the commencement of development. I am satisfied on the evidence before me the contribution would be necessary to make the development acceptable and reasonable in all other aspects.
72. I have, therefore, taken all of the above obligations into account.

### **Planning Balance and Conclusions**

73. In conclusion, there would be benefits of the proposal in providing a significant contribution towards the shortage of affordable housing in the District. There are also other benefits in terms of housing supply and economic benefits. However, I consider such benefits would not outweigh the harm I have identified in respect of the effect of the development on the character and appearance of the area.
74. Taking all of the above into account, I find that the proposal would conflict with the development plan taken as a whole. There are no other considerations which lead me to conclude other than in accordance with the development plan.
75. For the reasons given above, I conclude that the appeal should be dismissed.

*J Whitfield*

**INSPECTOR**

## APPEARANCES

### FOR THE APPELLANT:

Jack Smyth of Counsel

No 5 Chambers, instructed by Freeths

He called:

Mr Christopher Waumsley DipTP  
MRTPI

Head of Planning and Environment, Freeths

Mr Jonathan Evans BA (Hons) PG  
Dip LA CMLI

Associate Director, FPCR

### FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Mitchell of Counsel

Ropewalk Chambers, Nottingham, instructed by  
North East Derbyshire District Council

He called:

Mr Nick Ireland BA (Hons) MTPI  
MRTPI

Director in Strategic Planning, Icen Projects

Mr Adrian Kirkham MA MRTPI

Planning Manager (Development Management),  
North East Derbyshire District Council

Mr John Jeffcock CMLI NZILA  
(Registered) MLA BA

Associate, Michelle Bolger Expert Landscape  
Consultancy

### INTERESTED PERSONS:

Mr Nigel Barker

North Wingfield Parish Council

Cllr Jayne Barry

Local Resident

Mr John Beksa

Local Resident

Mr Jim Dunn

Local Resident

Mrs Josie Fisher

Local Resident

Ms Louise Gent

Local Resident

Mrs Yvonne Grosse

Local Resident

Mrs Cheryl Hegarty

Local Resident

Mr John Hegarty

Local Resident

Mr Tony Wheeldon

Local Resident

Mr Paul Williamson

Local Resident

## INQUIRY DOCUMENTS

ID1

S106 Unilateral Undertaking dated 4 Jun 2019

ID2

NE Derbyshire DC 2011 Housing Needs Market and  
Affordability Study Final Report (CD16)

ID3

N Derbyshire and Bassetlaw SHMA – OAN Updated Final  
Report October 2017 (CD17)

ID4

Letter from NE Derbyshire DC to The Planning  
Inspectorate dated 29 May 2019

ID5

Council's Opening Statement

ID6

Appellant's Opening Statement

ID7

Mr Beksa's written remarks

ID8

Mr Dunn's written remarks



ID9	Mrs Grosse's written remarks
ID10	Mrs Hegarty's written remarks
ID11	Cllr Barry's written remarks
ID12	Mr Barker's written remarks
ID13	Design and Access Statement
ID14	Mrs Fisher's written remarks
ID15	Carol Williams' written remarks
ID16	Miss Wakelam's written remarks
ID17	Mr Wheeldon's written remarks
ID18	County Archaeologist's comments in relation to the original planning application
ID19	List of Heritage Assets
ID20	Suggested Conditions (Tracked Changes Version)
ID21	Suggested Conditions
ID22	Council's Closing Statement
ID23	Appellant's Closing Statement
ID24	S106 Deed of Variation dated 11 June 2019

### **CORE DOCUMENTS**

CD1	National Planning Policy Framework Feb 2019
CD2	National Planning Policy Framework Mar 2012
CD3	NPPG – Housing and Economic Needs Assessments and Housing and Economic Land Availability Assessment
CD4	NE Derbyshire Local Plan 2005
CD5	NE Derbyshire Local Plan (2014-2034) Publication Draft Feb 2018
CD6	NE Derbyshire DC Planning Committee Report (2 Oct 2018)
CD7	LIEMA – Guidelines for Landscape and Visual Impact Assessment, Third Edition
CD8	Statement of Common Ground
CD9	Natural England – National Character Area Profile 38: Nottinghamshire, Derbyshire and Yorkshire Coalfield (2014)
CD10	East Midlands Regional Landscape Character Assessment 2010
CD11	Derbyshire County Council – The Landscape Character of Derbyshire (4 <sup>th</sup> Edition) (2014)
CD12	NE Derbyshire Historic Environment Study – Chapter 2 and Appendices (2012)
CD13	PINS/Secretary of State Screening Opinion (25 Jan 2019)
CD14	Michel Bolger Expert Landscape Consultancy Briefing Note 1 (28 Sep 2018)
CD15	NE Derbyshire DC Housing Topic Paper (Jan 2018)
CD16	NE Derbyshire DC 2011 Housing Needs Market and Affordability Study Final Report
CD17	N Derbyshire and Bassetlaw SHMA – OAN Updated Final Report October 2017