



Appeal Decision

Site visit made on 27 June 2017

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2017

Appeal Ref: APP/F1610/W/17/3171382

Land east of Bell Lane, Poulton

- 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 and Mrs Wigram against the decision of Cotswold District Council.
 - The application Ref 15/01376/OUT, dated 27 March 2015, was refused by notice dated 21 December 2016.
 - The development proposed is an outline planning application for the erection of up to 9 dwellings and associated access (appearance, layout, landscape and scale reserved for future consideration).
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 9 dwellings and associated access (appearance, layout, landscape and scale reserved for future consideration) on land east of Bell Lane, Poulton, in accordance with the terms of the application, Ref 15/01376/OUT, dated 27 March 2015, subject to the conditions set out in the Schedule attached to this decision.

Preliminary matters

2. The application was made in outline with matters relating to appearance, landscaping, layout and scale reserved for future consideration. I have determined the appeal on the same basis and have treated the illustrative material accordingly.
3. I have used the description of development as set out in the Council's decision notice as this reflects the evolution of the scheme during the planning application period.
4. A letter was received from Poulton Working Group dated 7 September 2017 stating that two newts had been found in Bell Lane and that one of which had been identified as a great crested newt. Both the Council and the appellant have been afforded opportunity to comment. I have considered the submission of Poulton Working Group and the response from the appellant below. No response has been received from the Council.

Application for costs

5. An application for costs was made by Mr and Mrs Wigram against Cotswold District Council. This application is the subject of a separate Decision.

Main Issue

6. The main issues are:

- the effect of the development on the foul drainage system and whether the proposed development would be likely lead to an increased risk of flooding in the area;
- the effect of the proposed development on highway safety;
- the effect of the proposed development on the character and appearance of the area; and
- the effect of the development on the living conditions of the occupiers of the nearby dwellings with particular reference to light pollution.

Reasons

Planning policy

7. The Cotswold District Local Plan (LP), which was adopted in 2006, covers the period from 2001 to 2011. Although beyond its end date it remains the development plan for the District. Paragraph 211 of the National Planning Policy Framework (the Framework) states that for the purposes of decision-taking, the policies in the LP should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
8. Saved LP Policy 19 relates to development outside development boundaries, as is the case with the appeal site. As the policy only permits development appropriate to a rural area; new-build open market housing, such as that proposed in this case, would be in conflict with it. However, the Council acknowledges that LP Policy 19 is out-of-date in the context of the Framework and this is confirmed in the Statement of Common Ground (SoCG). I agree, it is time-expired and restricts the supply of housing rather than boosting it in a positive manner. Its lack of consistency with the Framework therefore dictates that limited weight should be attributed to it.
9. LP Policy 42 relates to design and is broadly consistent with the Framework. I therefore give significant weight to this policy.
10. It is agreed between the Council and the appellant that the emerging Cotswold District Local Plan 2011-2031 (eLP) carries limited weight. Having regard to paragraph 216 of the Framework and its stage of preparation, I agree.

Foul drainage and flood risk

11. The appeal site relates to the western part of a large agricultural field. The site slopes from its north-east corner towards the south-west corner with the low point located adjacent to the bounding ditch on Bell Lane.
12. It is a matter of public record that the village of Poulton has suffered from flooding, as described within a report¹ commissioned by the Council following

¹ Cotswold District Council Review and Response to the Summer 2007 Floods in the Cotswold District

the 2007 flood event. This explains that in July 2007 up to 20 properties flooded in the village from fluvial, surface, groundwater and sewer sources. Poulton has been subjected to other flood events including those in 1999, 2000, 2008 and 2015.

13. Paragraphs 100 of the Framework explains that local plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by measures which include a Sequential Test. Paragraph 101 of the Framework explains that the aim of the Sequential Test is to steer new development to areas with the lowest possibility of flooding. In this regard, the Planning Practice Guidance advises that the aim is to steer new development to Flood Zone 1, which is categorised as having a low probability of river and sea flooding.
14. The Environment Agency flood map shows that the appeal site is situated within the Flood Zone 1 and the supporting Flood Risk Assessment concludes that the undeveloped site is at low risk of flooding from all sources. It is not therefore necessary to apply the Sequential Test to the appeal proposal. Nevertheless, paragraph 103 of the Framework states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.
15. The proposed foul sewerage strategy is to connect to the local foul sewer network and the Council's reason for refusal is that the proposal would exacerbate the existing foul drainage problems, which in turn would lead to increased risk of flooding elsewhere. Flooding and surcharge of the sewerage system is an identified concern because of historic connections and possibly misconnections of surface water drainage to the foul sewer, potential groundwater ingress and sewer maintenance issues.
16. The appellant acknowledges that the capacity of the Poulton public foul sewer network system to accept flows has been reduced over the years due to the connection of additional surface water drains from newer developments. Consequently, the foul sewer network can be overwhelmed by runoff from existing residential development during rainfall events and from uncontrolled surface water runoff from the locality, including from the appeal site, which finds its way into the highway drainage and the foul sewer network. The evidence in this case indicates that this can overwhelm both systems, thereby contributing to flooding within Poulton. There is also potential for groundwater flooding to contribute towards fluvial, sewer and highway drain flooding where high groundwater tables, constructional joints and damaged infrastructure can enable groundwater to leak into the systems.
17. Thames Water (TW) acknowledge that in the past the foul sewerage system in the Ampney St Peter catchment, where Poulton is situated, has been overwhelmed in some locations, following prolonged heavy rainfall and high ground water levels. Such conditions exceed what TW would normally design its sewers to cope with. TW also believe that surface water run-off from the surrounding saturated fields, ground water inundation and run-off from highways and properties contribute to the problems. For this reason TW are undertaking a Drainage Strategy Study for the area which aims to confirm the root cause of the problems and the level of risk within the catchment, so that appropriate interventions can be planned. The first stage of the study has

- been completed and the report has been published. Based on the date of the email from TW, the solution development stage is programmed to be completed by the end of this year.
18. I have therefore considered whether it would be premature to allow further development in the area whilst there are ongoing issues with the sewer infrastructure, pending the completion of the Drainage Strategy Study and any associated remedial work. I have also considered whether a 'Grampian' style condition would be appropriate to prevent commencement of the development until such time as a drainage solution is found and resolved. In this regard I have noted the example provided by an interested party regarding the planning permission granted in Kingham West, Oxon, where TW requested that a Grampian style condition be imposed for that particular development.
 19. However, unlike that case, TW has not identified an inability of the existing waste water infrastructure to accommodate the needs of the proposal. Indeed, whilst I am conscious of the risk of cumulative small level connections, TW does not have any objection to the appeal proposal with regard to sewerage infrastructure capacity, and has confirmed that the foul water increase associated with this development is so small that the impact cannot be assessed using their standard method, which is hydraulic modelling. It is stated that the foul flow from the proposed development of nine new dwellings will take up only a fraction of the pipe capacity (less than 1%) and as such the impact on existing customers is considered to be negligible. Moreover, I am unaware of the precise timescales for the study and for any resolution works that may be required. In these circumstances, an effective moratorium approach would not be reasonable or indeed necessary and as such would not pass the tests for conditions set out in paragraph 206 of the Framework.
 20. In terms of surface water, the appellants supporting information explains that the area is characterised by low permeability clay soils, subsoils and mudstone bedrock that does not allow a significant amount of infiltration. Therefore, surface water runoff occurs mainly as overland flow, following the topography of the site, with a smaller amount of infiltration and movement through the soils. Overland flow runs off the site along the south-west boundary into the bounding ditch on Bell Lane. The ditch ends just outside the south-west corner of the site, where it enters into a culvert, which is confirmed as a highway drain.
 21. The proposed residential development could further increase the impermeable areas of the site and in turn increase the existing runoff compared to the undeveloped state. However, the appellants have produced a sustainable drainage strategy (SuDS) to control and manage surface water from the proposed development, through controlled attenuation and discharge. The SuDS would be designed to control and manage surface water for events up to and including the 1 in 100-year rainfall event (with an additional climate change allowance of 40% to account for predicted future increases in rainfall). The surface water would be attenuated on site by collection within an oversized pipe and controlled discharge to the adjacent ditch so that no more runoff would come from the development than at present and less runoff would occur from the site due to climate change in future years. As is currently the case, the proposed SuDS for the development would outfall into the ditch outside the south-west corner of the site, where it enters into the highway drain.

22. The proposed SuDS would also accommodate surface water from a 1.37 Ha catchment to the east of the site, which would be captured by a cut-off drain feeding into an oversized pipe and allowed to discharge to the adjacent watercourse at the restricted recommended rate. Whilst this catchment area may have been reduced in size during the course of the application, it remains a position of betterment to the existing conditions. Tile drainage encountered entering the site during construction would also be diverted into the attenuation system. If the system is full, it will overflow onto Bell Lane as present, but with a position of betterment with regard to surface water discharges into the existing ditch system. In doing so, the SuDS would contribute to the management of the risk of increased infiltration into foul drainage system. The site would also be developed with a separate surface water and foul system and maintenance of the SuDS system can be satisfactorily resolved by way of a condition.
23. Therefore, whilst it is not proposed that this development would resolve the existing foul sewer flooding within Poulton, any contribution towards flooding in Poulton arising from surface water run-off originating from the site and wider catchment would be both controlled and measurably reduced. A position of betterment is therefore achieved in terms of surface water drainage.
24. I fully appreciate and sympathise with the Council's concerns and those expressed by local residents over previous flooding events and the anxiety over potential future events, as well as unresolved foul sewer system concerns. However, subject to conditions, the Lead Local Flood Authority (LLFA) has confirmed that it has no objections based on the information provided as the proposal meets the requirements of an outline application for which it is a statutory consultee. Moreover, as explained, TW has confirmed that foul flow from the proposed development would take up only a fraction of the pipe capacity and that the impact on existing customers is considered to be negligible. I have attached significant weight to these responses from technical and statutory consultees in my decision.
25. Therefore, on the basis of the evidence currently before me, I find that the proposal, taken as a whole, would not materially exacerbate existing foul drainage problems and lead to an increased risk of flooding elsewhere. Accordingly, I find no conflict with paragraph 103 of the Framework which seeks to prevent the same. For the same reasons I find no conflict with eLP Policy EN14, which requires, amongst other matters, that proposals should not increase the level of risk to the safety of occupiers of a site, the local community or the wider environment as a result of flooding.

Highway safety

26. Bell Lane in the vicinity of the appeal site is of restricted width and subject to a 30mph speed limit. There are no footways or street lighting linking the site with the centre of the village. However, during the course of my site visit I observed very few vehicle movements along Bell Lane. I accept that my site visit represents only a 'snap shot' of local conditions and that traffic would increase during the peak hours. However, data provided by the appellants also shows that Bell Lane is lightly trafficked and this view is shared by the Highway Authority.
27. The trip generation for an eleven unit scheme, rather than the nine now proposed, predicts 57 movements vehicles per day, an increase of 6 in the AM

- peak hour and 7 in the PM peak hour. This equates to no more than one additional vehicular movement about every 9-10 minutes and as such would not be significant.
28. I also note that a Stage 1 Road Safety Audit has been undertaken and has raised no safety problems in respect of the site access and associated visibility splays. Nevertheless, visibility splays have been increased in accordance with Highway Authority requirements and updated traffic data.
29. I recognise that the section of Bell Lane between the appeal site and London Road is quite narrow but on the premise of the occasional vehicle being required to stop and yield at a wider section of carriageway, there is an adequate level of forward visibility along this section to enable safe driver interaction.
30. I have noted the pedestrian safety concerns of local residents, including that of children walking to the school bus stop. However Personal Injury Data show no incidents occurring along this section of Bell Lane during the latest available five year data period. Given the low level of traffic movements along Bell Lane and the relatively small increase in traffic movements associated with the development, I find no reason to conclude that despite the lack of footways, vulnerable users, including those on foot and cyclists, would not be able to safely interact with the low number of vehicles involved whilst also retaining the rural character of the lane.
31. The Highway Authority's view is that people with disability will not be affected by the transport impacts of the proposed development. Moreover, the SoCG confirms the Council's view to be that the development would not result in an adverse impact on the local highway network and no objections, subject to conditions, have been raised by the Highway Authority. Therefore, whilst I have noted the concerns raised by local residents, on the basis of the evidence before me, I find no reason to take a contrary position on these matters. I therefore conclude that the proposal would not be harmful to highway safety and as such would not result in conflict with paragraph 32 of the Framework, which requires safe and suitable access be achieved for all people.

Character and appearance

32. The appeal site relates to the western part of a large agricultural field. Its overgrown appearance does not suggest it is currently being actively farmed. The site is therefore greenfield in nature and does not comprise previously developed land.
33. It does not fall within the Cotswold Area of Outstanding Natural Beauty (AONB) and the Council agree that it does not fall within a protected or valued landscape, in the context of paragraph 109 of the Framework. The proposal would therefore deliver housing without compromising any of the landscape designations which cover most of the District. This therefore differentiates the scheme to that which is the subject of the appeal decision² referred to by interested parties relating to land south of Collin Lane, Willersey, which relates to a major development scheme in the AONB.
34. The landform slopes to the rear of the site such that the development is unlikely to significantly feature in any views from the east beyond the field,

² Appeal Ref: APP/F1610/W/15/3121622

even from the initial stage pending maturity of any landscaping scheme. Moreover, existing development and mature boundary planting is such that the proposal would be unlikely to have any material wider landscape effects beyond this part of Poulton.

35. Effects therefore are likely to be largely localised and in the main concentrated along this section of Bell Lane, where the existing residential development is primarily located in a linear fashion along the western side of the road. On the eastern side of the road there is a significant gap between the dwellings on the northern side of the appeal site and those properties to the south, close to London Road. The majority of this undeveloped gap is taken up by the appeal site, which presents a grassed verge, trees and hedgerow across the appeal site frontage. These features and the greenfield nature of the site and the relatively narrow width of Bell Lane, lack of footways and street lights, contribute to the verdant and rural character of the area.
36. It is agreed between the Council and the appellant that the site is located within the limits of the village and does not extend into the open countryside. I agree. However, within the context of Bell Lane, the erection of nine new dwellings into an undeveloped greenfield site would mark a material change and would consolidate the ribbon development on both sides of the lane, thereby diminishing its overall rural character.
37. Nevertheless, the benefit of the indicative layout is that the vast majority of the hedgerow across the site frontage would be retained, which the Council and appellant agree as being an important landscape feature. The retention of the existing hedge to the site frontage would also provide a reasonable level of screening to the development, although this would be materially reduced during the winter months. The green space between the hedge frontage and the new access road would also provide opportunity for additional planting and further softening, whilst improving the setting to the proposed development.
38. The indicative layout also shows that the houses could face towards the road in a single row, albeit significantly set back and with more of a suburban style layout. Although elevated above Bell Lane, the set back of the dwellings within the site and mixture of single storey and two storey dwellings would help avoid an overly imposing or dominating effect on the Lane. I am therefore satisfied that a suitable policy compliant design could be brought forward at reserved matters stage.
39. The main effects would be experienced in and around the access, which is a matter currently before me. Here the existing simple field gate would be replaced with a much wider, suburban style engineered access rising up from Bell Lane. The single access point would serve each of the dwellings from a secondary road running parallel to Bell Lane, in contrast with the existing dwellings which in the main have direct individual access points. In the short term, the access would also allow for largely unobstructed views into the development.
40. Further harm would likely arise from the loss of trees to create the site access, although this in time could be mitigated through new planting secured via suitably worded conditions. New planting would also potentially create biodiversity benefits.

41. The appeal site is also situated outside of and to the north of the Poulton Conservation Area. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. At present, views to the north east, from close to the junction of Bell Lane with London Road, are of the intervening field and the trees and hedgerow along the southern boundary of the site, which are framed by the attractive vernacular dwellings either side of the lane. This green, undeveloped backdrop reinforces the rural setting to the village and the Conservation Area.
42. The intervening field would be physically unaffected by the development and during the summer months the existing trees and hedgerow in and around the southern boundary to the site would provide a good degree of screening to the development. Whilst some views of the development would be achieved during the winter months, these would be heavily filtered by the existing vegetation, even though the site is elevated above the level of Bell Lane. This would similarly apply to the private views from the dwellings fronting onto London Lane. Although I have noted the concerns about the appellants landscaping and boundary proposals for the southern boundary, I am satisfied that this is a matter that could be adequately dealt with at reserved matters stage.
43. Therefore, the filtered views of the proposed development would essentially preserve the views that make a positive contribution to the rural setting of the Conservation Area. This position is consistent with that of the Council's Conservation Officer and that set out in the SoCG. I therefore conclude that the setting of the Conservation Area would be preserved, sustaining its significance as a designated heritage asset as anticipated by paragraph 132 of the Framework and LP Policy 15.
44. Nevertheless, I find that the proposal would result in some harm to the character and appearance of this part of Bell Lane, contrary to LP Policy 42. Taking account that the site does not fall within the AONB or any other landscape designation; that it falls within the general confines of the village; the relatively limited area to be developed for housing; the extensive landscaping; and planting which can be secured at reserved matters stage and the eventual additional screening arising, I consider that the overall level of harm would be limited.

Living conditions

45. The proposed access would be positioned opposite and towards the northern extent of the existing residential property known as Little Orchard. Consequently, the headlights from cars leaving the site and travelling to the south, would sweep across the front of this dwelling and its habitable room windows. Given the dark and rural location, it is also likely that cars leaving the site would be using full beam. As this would be the sole access point for the nine dwellings, there would be a material degree of light pollution to its occupants particularly compared to the existing. Whilst this harm can be largely mitigated by the use of curtains, it is, nevertheless, a matter which weighs against the appeal proposal.
46. Although there may be some additional light nuisance to the occupants of other properties opposite from the headlights of cars leaving individual properties, this would not be significant given the number of movements associated with one or two dwellings positioned opposite and that drivers are more likely to reverse from those parking spaces. Moreover, if the indicative turning space is

provided, its use is unlikely to result in a significant number of vehicular movements such that the living conditions of those living opposite would be unduly compromised.

47. I appreciate that the proposal would significantly change the view from the existing dwellings along Bell Lane. However from the information supplied, I am satisfied that it would be possible to design a scheme which would not materially harm the living conditions of existing occupiers in terms of overlooking, loss of privacy, loss of light or any overbearing or dominant visual effects.

Other matters

Natural Environment

48. The illustrative master plans and landscape drawings show how the identified important habitats, hedgerows and trees can be largely retained and the areas enhanced to compensate for the minimal loss of habitats, including an orchard and wild flower meadow planting. The landscape plan also shows how ecological enhancements could be achieved.
49. The view of the Council's Biodiversity Officer is that subject to conditions to secure the recommended mitigation and enhancements, the proposal will not cause harm to any protected species. No further response has been received from the Council in respect of the submission made by Poulton Working Group that two newts were found in Bell Lane on 5 September 2017, one of which has been confirmed to be a great crested newt. Nevertheless, I agree with the appellant's comments that very little detail has been provided on the nature of these discoveries, including their precise location and the manner of the discoveries and how they relate to the appeal site.
50. Although the appellant's ecological appraisal explains that the site as a whole provides terrestrial habitat for amphibians, with the hedgerows and scrub in particular being optimal habitat, it is also explained that there are no ponds on site and those within 500m are isolated from it by roads and residential areas. There is no evidence of any change in these circumstances since the survey was carried out. The subsequent response from the appellant's ecologist to the appeal stage submission of Poulton Working Group is that the site does not provide any breeding habitat for amphibians and although it is suitable terrestrial habitat, there are no extant ponds in close proximity to lead them to believe that the site could be important terrestrial habitat for amphibians, including great crested newts. These comments from appellant's ecologist refer to correspondence from the Council's biodiversity officer in 2015 and 2016, and in this context, the Council has not sought to disagree with the appellant's appraisal and position on this matter.
51. Consequently, on the basis of the evidence before me, it has not been established that there is a reasonable likelihood of the protected species being present and affected by the development. Accordingly, I find no conflict with LP Policy 9, which states that the Council will not permit development that harms a site supporting any legally protected species or its habitat unless safeguarding measures can be provided (nor, in relation to this matter, have I found any conflict with the relevant parts of the Framework).

Procedural Concerns

52. I note the concern raised by interested parties regarding the reason for refusal and whether or not this represents an accurate reflection of the discussion at Committee. However, I have been provided with a copy of the minutes of 11 January 2017 which approves as a correct record the minutes of the meeting of the Committee held on 14 December 2016, at which the appeal proposal was refused.
53. I appreciate that the number of amendments and length of time to determine the application will have been a cause of concern and uncertainty for local residents. However, paragraph 187 of the Framework states that local planning authorities should look for solutions rather than problems and should work proactively with applicants to secure developments that improve the economic, social and environment conditions of the area.

Valued Community Space

54. I appreciate the value placed on Bell Lane and its use for recreational purposes and a valued community space. However, I am not convinced that this would be lost by the introduction of nine dwellings. Whilst I acknowledge concerns have been raised regarding maintenance of boundaries, this is a private matter between the parties involved.
55. I recognise that it would be preferable for those who have objected to the proposal for the land to be used as a local nature reserve and I have noted the view that there are other more appropriate sites for development in Poulton. However, those are not proposals currently before me and which I have been appointed to determine.

Pollution

56. I have no substantive evidence that the proposal would result in increased levels of pollution and I note that the Council's Environmental Health Officer has not objected to the proposals.
57. I accept that residents may be inconvenienced during construction. However, this is an inevitable short term period and conditions can be imposed to minimise the level of inconvenience and disturbance caused.

Broadband

58. Whilst the village may suffer from poor broadband services, this does not materially weigh against the appeal proposal.

Precedent

59. I note local concerns regarding precedent, but it is a fundamental principle of the planning system that each case is determined on its individual merits having regard to the specific circumstances, policies, legislation and balance of harm and benefits which relate to it. I have therefore done so in this case, having regard to the aim, expressed throughout the Framework, of securing sustainable development.

Planning Obligation

60. A signed Section 106 Agreement has been submitted in support of the appeal which covenants to provide education contributions to accommodate additional school places at Farmor's Secondary School and Meysey Hampton Primary School.
61. The Planning Practice Guidance (PPG) advises³ that affordable housing and tariff style contributions should not be sought from small scale and self-build development of 10 units or less. Notwithstanding whether or not this would preclude the education contribution arising from appeal proposal, Community Infrastructure Levy (CIL) Regulation 123(3)(b) (as amended) allows contributions to be sought from up to five planning obligations for a specific infrastructure project that is capable of being funded by CIL. From that point, any further planning obligations in respect of that infrastructure project (or type of infrastructure) can no longer constitute a reason for granting planning permission. Therefore, although the obligation remains in place, and may remain enforceable, I cannot be certain on the evidence before me whether the 'five-obligation limit' would be breached in the case of either of the school infrastructure projects and whether lawfully I am able to take into account the obligations in my decision. In these circumstances, having regard to the statutory tests in CIL Regulation 122, I am unable to afford any weight to the Section 106 Obligation in my decision.

Conditions

62. I have considered the conditions attached to the SoCG having regard to the Framework and the PPG. In addition to the standard implementation and submission of reserved matters conditions, it is necessary, in the interests of precision, to define the plans with which the scheme should accord. I have also conditioned the development to ensure the mix of dwelling size is achieved and that the quantum is such that an otherwise appropriate requirement for an affordable housing contribution is not avoided.
63. Conditions have been imposed to ensure satisfactory drainage of the site, water conservation and to avoid flooding. A condition is necessary to deal with any unforeseen contamination. Conditions requiring a Construction Logistics Plan and controlling the hours of construction and deliveries are necessary to minimise inconvenience and disturbance to nearby residents, and in the interests of highway safety. Details of finished floor levels are conditioned to protect the character and appearance of the area and the living conditions of the occupants of surrounding dwellings.
64. In the interests of highway safety conditions have been imposed relating to the access, service road, turning facilities (including their future management and maintenance) and parking. A condition has been imposed in the interests of biodiversity and protected species.
65. I have not imposed conditions requiring tree protection or replacement as these matters can be considered at reserved matters stage and therefore do not pass the test of necessity. Given the quiet rural location, I am also unconvinced that a condition is necessary to protect future occupants from external noise.

³ Paragraph: 031 Reference ID: 23b-031-20161116

66. The PPG advises that care should be taken when using pre-commencement conditions. However, in the interests of proper planning and to avoid any potentially abortive works, it is appropriate that the conditions relating to drainage, levels, access and construction, should be approved prior to the commencement of any works.
67. I have amended the wording of a number of the suggested conditions to ensure compliance with the provisions of paragraph 206 of the Framework.

The Planning Balance and Conclusions

68. Paragraph 14 of the Framework explains that at its heart is a presumption in favour of sustainable development. It explains that for decision-taking, this means, where relevant policies are out of date, granting planning permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
69. The Council's position is that it can demonstrate a robust five-year supply of deliverable housing sites, and this is not disputed by the appellant. Therefore, the second part of paragraph 49 of the Framework, which states that relevant policies for the supply of housing should not be considered up-to-date where the contrary is the case, is not applicable here. However, Saved LP Policy 19 is deemed to be out-of-date in the context of the Framework. Although having regard to the Supreme Court (SC) judgment⁴ of 10 May 2017, this policy should not be considered as a policy for the supply of housing, it is nonetheless the most relevant policy in this case. The tilted planning balance of paragraph 14 of the Framework is therefore engaged.
70. I have noted the reference made by interested parties to appeal decision reference APP/F1610/W/16/3144113. However, even though the five-year supply of deliverable housing sites may have been achieved in that case, I have no evidence to suggest that the tilted planning balance was not applied for the same reasons I have explained. Moreover, I have limited details of the nature and location of that scheme so as to be sure that direct comparisons can be drawn with that currently before me.
71. The Council has invited me to consider whether there are specific policies in the Framework which indicate in this case that development should be restricted. Although in this regard the list of such policies in Footnote 9 includes locations at risk of flooding, the site is situated within Flood Zone 1, which is categorised as having a low probability of flooding. Moreover, for the reasons I have explained, I have not found conflict with the specific policy set out in Framework paragraph 103, which is referred to by the Council in its reason for refusal. I do not therefore find that specific policies in the Framework indicate development should be restricted.
72. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: social, economic and environmental. Dealing firstly with the social dimension, Paragraph 55 of the Framework advises that, to promote sustainable development, rural housing should be located where it

⁴ Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)

- would enhance or maintain the vitality of rural communities and avoid new isolated homes unless there are special circumstances.
73. The appeal site is within walking distances of the existing basic day-to-day services and facilities within Poulton, comprising a community shop, public house, village hall, church and playing fields. The provision of nine new dwellings would therefore materially contribute to supporting these services and facilities, and in doing so enhance the vitality of this rural community in accordance with paragraph 55 of the Framework. This is a matter of moderate weight in favour of the appeal proposal.
74. Nevertheless, some form of travelling would be required to access a greater range of services, facilities and employment opportunities. In this regard I note that Poulton is served by bus services linking it with Cirencester and Fairford and the SoCG confirms that route 77 provides a frequency and timetable that could be used for travel to work in Cirencester, approximately 5 miles away, for people working normal working hours. Future occupants would therefore have the opportunity to use a more sustainable form of transport to access those services and employment opportunities. Moreover, school bus services provide connections to primary and secondary schools in the area.
75. However, I consider it likely that future occupants would use a private car to access a greater range of services and facilities. This would be contrary to LP Policy 19 criterion (c), although for the reasons explained I have attached only limited weight to this policy. Accordingly, it is no surprise that the eLP does not propose any allocations for new residential development Poulton in the period up until 2031 and is not included in the list of settlements which make up the development strategy set out in eLP Policy DS1. However, I note that this policy does not infer a blanket ban on development outside of the identified settlements. This is dealt with under emerging Policy DS3 but for the reasons I have explained, only limited weight can be afforded to these emerging policies.
76. In overall terms my view is that Poulton is not a particularly sustainable location and this therefore weighs against the appeal proposal, as does the limited harm to the living conditions which would be experienced by the occupants of Little Orchard.
77. I have noted the Council's reference to the recent appeal decision⁵ relating to Poole Keynes. However, it is evident from that decision that in contrast to Poulton, the only facilities at Poole Keynes are a village hall and church. It also appears that that village is not served by public transport. It is not therefore directly comparable to the appeal currently before me.
78. The Planning Practice Guidance⁶ makes clear that there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development, including from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1,000m². The appeal proposal does not breach these thresholds and therefore is not required to provide a contribution towards affordable housing. Nevertheless, as none is

⁵ Appeal Ref: APP/F1610/W/16/3163137

⁶ Paragraph: 031 Reference ID: 23b-031-20161116

- proposed, the proposal does not attract the benefits of making such provision in the planning balance.
79. I accept that nine new dwellings would be significant in the context of Poulton. Nevertheless, such provision would increase housing supply and choice in accordance with paragraphs 47 and 50 of the Framework. I acknowledge that the Council is able to demonstrate a five-year supply and therefore the weight I have attached this aspect is not as great as if this were not the case. The benefit is also further tempered by Poulton not being a particularly sustainable settlement. However, even if the five-year housing land supply figure is met, the Framework does not suggest that this has to be regarded as a ceiling or upper limit on permissions. Therefore, in overall terms, the boost to housing supply is a matter of moderate weight in favour of the appeal proposal.
80. Whilst local employment could not be guaranteed, there would be an economic benefit arising from the construction of the dwellings. Due to its temporary nature, this attracts limited weight in favour of the appeal proposal. The local economy would though benefit from the additional spending power of the completed scheme's residents and therefore in overall terms the proposal would meet the economic dimension of sustainable development. I also find no substantive evidence to suggest that the proposal would result in material harm to tourism in the Cotswolds or to the rural economy.
81. In terms of biodiversity, the illustrative master plans and landscape drawings show how the identified important habitats, hedgerows and trees can be largely retained and the areas enhanced to compensate for the minimal loss of habitats. The landscape plan also shows how ecological enhancements could be achieved and I have not found, on the basis of the evidence before me, that there is a reasonable likelihood of protected species being present and affected by the development.
82. Whilst the proposal would result in the loss of some agricultural land, this would not be significant. Accordingly, I find no conflict with paragraph 112 of the Framework in this regard. This view is also consistent with the Council's.
83. Although it is not proposed that this development would resolve the existing foul sewer flooding within Poulton, any contribution towards flooding in Poulton arising from surface water run-off originating from the site and wider catchment would be both controlled and measurably reduced. A position of betterment is therefore achieved in terms of surface water drainage. Moreover, TW has confirmed that the foul flow from the proposed development would take up only a fraction of the pipe capacity and that the impact on existing customers is considered to be negligible.
84. In environmental terms I have found harm to character and appearance, but this would be localised and limited. The proposal would also deliver housing outside of the landscape designations which constrain most of the District.
85. Overall therefore, the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole. Moreover, for the reasons I have explained, my decision would not result in a violation of Article 8 (right for respect for private and family life) of the Human Rights Act 1998.

86. All representations have been taken into account. For the reasons I have explained, I have not found conflict with LP Policies 9 and 15 or eLP Policy EN14. I have found conflict with LP Policy 42 but the level of harm and conflict would be limited. I have also found conflict with LP Policy 19 but this policy attracts only limited weight. The benefits I have identified would outweigh the limited policy conflict and the proposal would amount to sustainable development. I therefore conclude that the appeal should be allowed.

Richard S Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and SK03B.
- 5) The development hereby permitted is for a maximum of nine dwellings which shall not exceed a combined gross floor space of 1,000m² (gross internal area). No individual dwelling shall have a gross internal area exceeding 225m².
- 6) Development shall not take place until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority. The strategy shall address how the overland flow drains to oversized pipes inside the boundary and measures to ensure overland flow routes and interception drainage will be kept clear from any obstructions. The scheme shall be completed in accordance with the approved details before the development is first occupied.
- 7) No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system/attenuation features and associated pipework shall have been submitted to and approved in writing by the local planning authority. Those details shall include:
 - a timetable for its implementation;
 - appropriate means of access; and,
 - a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 8) Prior to the first occupation of the dwellings, surface water attenuation/storage works for the dwellings shall be provided by the installation of a functioning water butt (minimum capacity 200 litres) in accordance with positions to be shown on plans to be submitted and approved in writing by the local planning authority. The water butts shall be retained as such thereafter.

- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 10) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a scheme with a timetable for the provision, future management and maintenance of the vehicular and pedestrian access to the site, associated highway works and visibility splays shown on drawing number: SK03B; and, vehicle parking and manoeuvring areas. The scheme shall be implemented as approved and retained as such thereafter.
- 11) No works shall commence on site (other than those required by this condition) on the development hereby permitted until the first 10m of the proposed access road, including the junction with the existing public road and associated visibility splays, has been completed to at least binder course level.
- 12) No development shall take place until a Construction Logistics Plan which sets out details of how the construction of the development hereby permitted will be managed, has been submitted to and approved in writing by the local planning authority. The statement should:
 - a) specify the type and number of vehicles;
 - b) provide for the parking of vehicles of site operatives and visitors;
 - c) provide for the loading and unloading of plant and materials;
 - d) provide for the storage of plant and materials used in constructing the development;
 - e) provide for wheel washing facilities; and
 - f) measures to control the emission of dust and dirt during construction.

Construction works shall take place solely in accordance with the approved details.

- 13) Construction work and associated deliveries shall not take place outside of the following times: 0730 hours – 1800 hours Monday to Friday and 0800 hours – 1400 hours on Saturdays. No construction work or associated deliveries shall take place on Sundays or Bank Holidays.
- 14) No works shall begin on site until a Ten Year Ecological Enhancement and Landscape Management Plan based on the recommendations in the amended Ecological Appraisal (All Ecology Oct 14), and illustrated in drawing no DLA-1615-L003-02 Rev D, is submitted to and approved in writing by the local planning authority, including timings of implementation. All the works must be carried out as per the approved details and retained as such thereafter.

- 15) No development shall take place until full details of the finished floor levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.