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## Appeal Decision

Hearing held on 6 November 2018

Site visit made on 7 November 2018

**by Brendan Lyons BArch MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> April 2019

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**Appeal Ref: APP/R3705/W/18/3196890**

**Land to the south of Tamworth Road and to the west of the M42,  
Tamworth B78 1HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Taylor Wimpey UK Ltd against North Warwickshire Borough Council.
  - The application, Ref PAP/2017/0602, is dated 8 November 2017.
  - The development proposed is described as residential development of up to 150 dwellings, open space, landscaping, drainage features and associated infrastructure, with full approval of the principal means of access and all other matters reserved.
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### Decision

1. The appeal is dismissed and outline planning permission is refused for residential development of up to 150 dwellings, open space, landscaping, drainage features and associated infrastructure, with full approval of the principal means of access and all other matters reserved at Land to the south of Tamworth Road and to the west of the M42, Tamworth B78 1HU.

### Preliminary matters

2. The application that has given rise to this appeal was submitted in outline form, with only the principle and amount of development and the means of access to the site for full approval at this stage. The plan showing the layout of the access was revised while the application was still under consideration by the Council and I am satisfied that no party's interests would be prejudiced by taking account of the amended plan<sup>1</sup>. Further revisions since the appeal was submitted are considered below. Other matters, including the layout and landscaping of the site and the scale and appearance of development were 'reserved' for later approval by the Council. However, the application was supported by a Parameters Plan and an Illustrative Masterplan that show how development might be laid out on the site. I have taken note of this illustrative material in considering the appeal.
3. The appeal was submitted in February 2018 against the Council's failure to issue a decision within the prescribed period. The Council has stated that the application was subsequently considered by its Planning and Development

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<sup>1</sup> Plan ref 173236\_A01 Rev C

Board, which resolved that it would have refused planning permission. The Council's two intended reasons for refusal are reflected in the framing of the main issues in the appeal as set out below.

4. These reasons also inform the matters in dispute identified in the Statement of Common Ground ('SCG') concluded before the Hearing by the appellant and the Council. Separate SCGs were agreed by the appellant with Warwickshire County Council ('WCC') on highways and education provision and later with Staffordshire County Council ('SCC') on highways matters.
5. The main SCG sets out the planning policy context. The Council has confirmed that its case would not rely on any saved policies of the North Warwickshire Local Plan 2006, but only on the adopted policies of the North Warwickshire Core Strategy 2014 ('CS'). Both of those development plan documents are intended to be replaced by a new North Warwickshire Local Plan ('NWLP'), the examination of which commenced since the appeal was submitted and remains in progress. Since the appeal Hearing, the Examining Inspector has issued a Progress Note following the initial round of examination sessions. Parties to the appeal were given the opportunity to comment on the implications of this latest stage in the progress of the emerging NWLP, and the responses received (from the Council and the appellant - the 'main parties') have been taken into account in this decision.
6. Since the appeal was first submitted, Government planning policy was updated by the publication of the July 2018 revision of the National Planning Policy Framework ('NPPF'). All parties to the appeal referred to the updated NPPF in their written and oral submissions. More recent minor amendments to the NPPF in February 2019, linked to the publication of the outcomes of the Housing Delivery Test, have not had a critical bearing on the appeal decision.
7. Before the Hearing, the appellant submitted drafts of two unilateral undertakings ('UUs') intended to provide planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended). The UU to WCC was to cover the payment of financial contributions for education, biodiversity offsetting, rights of way and highways infrastructure. The UU to North Warwickshire District Council ('NWDC') was to deal with the provision and management of open space and affordable housing and with financial contributions towards healthcare provision and policing. Following discussion at the Hearing, amended forms of the two UUs, each executed as a deed, were later provided in accordance with an agreed timetable.

### **Main Issues**

8. In the light of the Council's resolved objections to the proposal and those of interested parties, it was agreed at the Hearing that the main issues in the appeal are:
  - Whether the proposal would adversely affect the character and function of the planned gap between the settlements of Tamworth and Polesworth;
  - Whether the proposal would provide adequate mitigation for its effects on local infrastructure and service provision.

## **Reasons**

9. The appeal site comprises some 6.4ha of agricultural land, located to the south of the B5000 road between the towns of Tamworth and Polesworth. The site takes access from a short spur road off the B5000, which also serves a large sports ground that partly adjoins the site to the west. The remainder of the western boundary is formed by a paved foot/cycle way known as Green Lane, beyond which, within Tamworth Borough, lies the extensive Stonydelph housing area. A public footpath runs along the southern and eastern boundaries of the site, with open agricultural fields to the south and the M42 motorway, which here runs in a wooded cutting, to the east. Land on the opposite side of the motorway is safeguarded for the route of the HS2 railway.

### ***Gap between settlements***

10. Polesworth is a small market town, which now directly abuts the smaller settlement of Dordon, immediately to the south. The settlement hierarchy defined by CS Policy NW2 places the combined settlement in the top category, suitable for significant growth. Being outside the designated settlement boundary, the appeal site is not subject to any development plan allocation and falls within Category 5 of the hierarchy, within which development is to be limited to that needed for agriculture or a rural location.
11. CS Policy NW19 identifies a broad location for growth to the south and east of Polesworth and Dordon. Any development to the west, which would include the appeal site, is to respect the separate identities of Polesworth and Dordon and Tamworth and to maintain a 'meaningful gap' between them.
12. The emerging NWLP restates the settlement hierarchy but proposes to introduce a new Category 2 identifying the potential development for housing or employment of land at the outer boundary of the borough adjoining the built-up area of existing settlements. But this would be subject to criteria including the location being outside an identified gap and the presence of clear separation from a North Warwickshire settlement that would allow the character of the settlement to be preserved. The appeal site is located immediately adjoining the urban edge of Tamworth but has not been identified for development, being shown as part of the 'meaningful gap' between Polesworth and Dordon and Tamworth defined by Policy LP5. This policy restates the CS Policy NW19 stipulations, but adds a further requirement that any development within the gap should be small in scale and not intrude visually into the gap or reduce the size of the gap.
13. Although the examination of the NWLP has progressed, it still has some way to go before it can be considered for adoption. In the light of evidence of unresolved objections, I consider that the relevant emerging policies can only receive relatively limited weight in this decision. Thus, while the emerging plan is a material consideration, the appeal proposal must primarily be assessed in respect of compliance with Policy NW19.
14. The maintenance of a physical gap between Polesworth with Dordon and Tamworth has been a longstanding policy objective of the Council, but the NWLP is to provide an opportunity to define the precise extent of the gap. The Council's case for inclusion of the appeal site is founded on the

recommendations of a study prepared by consultants in January 2018<sup>2</sup> that forms part of the NWLP evidence base. The study provides the type of reasoned evidence that the Inspector who examined the CS had found lacking at that time<sup>3</sup>.

15. Building upon an earlier assessment carried out in 2015, the study places the appeal site within Parcel 7 of a total of 10 land parcels evaluated for their potential contribution to a 'meaningful gap'. Parcel 7 comprises the appeal site and adjacent sports ground, together with agricultural land to the south, all forming a wedge defined by Green Lane to the west and the M42 to the east. The study concludes that the parcel is a crucial part of the 'meaningful gap', providing a buffer and sense of separation between the three separate but very closely spaced settlements.
16. There is no dispute that the settlements have very distinct identities. Polesworth has the character of a traditional small market town, defined by its historic core, while Dordon's growth has arisen from housing to serve former mining activity. Tamworth is a much larger place, whose planned employment and residential expansion has given it almost a 'new town' character.
17. Further development at the edge of Tamworth could be planned as an integral expansion of the town, without seriously affecting its established identity. Indeed, the NWLP proposes significant expansion beyond the existing borough boundary at Robey's Lane, to the north of the appeal site. The appeal development would be an isolated unplanned extension beyond the existing strong edge to the built-up area provided by Green Lane. It would surround the sports ground, which currently clearly sits outside the town, absorbing it into the urban area. But it would not be of such scale or effect that the identity of Tamworth would be significantly altered.
18. The NWLP Robey's Lane allocation would still allow substantial separation from Polesworth with Dordon. If expansion at the edge of Tamworth were to result in any coalescence with the smaller settlements, it would seriously compromise, if not extinguish, their separate identities. The market town character of Polesworth, in particular, relies on a rural hinterland as a key element of its identity. The policy objective of maintaining a largely undeveloped gap to the west of the town is well founded. The issue then becomes whether and to what extent erosion of the existing gap would also be significantly harmful.
19. The space between Tamworth and Polesworth at its nearest point, which is effectively the route of the B5000, is only some 800-850m. The Parcel 7 land to the west of the M42 makes up nearly half of that gap. A narrowing of the gap by the development of the site would be a significant change in purely quantitative terms. The appellant's 'quantitative assessment'<sup>4</sup> notes the gap remaining after development would be some 500m. But at the scale of urban and landscape form, that would represent only a small distance, and not an 'extensive area' as claimed.

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<sup>2</sup> Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations, LUC, January 2018

<sup>3</sup> Report on the Examination of the North Warwickshire Local Plan: Core Strategy, 24 September 2014 paras 20-21

<sup>4</sup> Landscape Statement of Evidence by Nicola Jacob CMLI, paras 4.28-4.31

20. However, as accepted in the decision on a previous appeal<sup>5</sup> for development on a different parcel of land in the proposed 'meaningful gap', I agree that a 'scale rule' approach to evaluating separation between settlements should be avoided<sup>6</sup>, and that an assessment of the impact of any proposed development must look at the character of the places affected and not merely the physical dimensions.
21. It is accepted that the appeal site and the surrounding area is not of outstanding landscape quality. But despite urban influences such as the motorway corridor and nearby employment development, it does form part of a visually pleasant stretch of undulating rural land.
22. The appeal site comprises a single large irregularly-shaped field. It is well contained visually on its western side by the trees along Green Lane with housing beyond, and on its eastern side by the trees along the motorway cutting. To the north, the short row of houses backed by trees along the B5000 also provides quite strong enclosure, but the boundary with the sports ground is more open, despite a bank marking the modest rise in level to the playing fields. The land falls to the south, where only fragments of a hedge remain, so that the field is seen as part of a continuous swathe of agricultural land. There is a strong degree of coherence of the Parcel 7 land.
23. In views south from the site and from the public footpath along its boundary, the Parcel 7 land is also seen in combination with part of the wider open land to the east of the M42, that encompasses the small hamlet of Birchmoor. The motorway provides a strong linear feature when it emerges from its cutting, but is not perceived as an edge that isolates the Parcel 7 land.
24. Similarly, in views across the site from the west, such as from limited gaps on Green Lane, the tree line along the motorway does not provide a definitive termination, and there is a perception of openness continuing beyond, with clear glimpses of Polesworth School and buildings nearby.
25. The safeguarded route for the HS2 would be close to the motorway, crossing it to the south of the site, but I was informed that the line would be covered along this section, so it would appear unlikely to form a further strong barrier that might serve to isolate Parcel 7.
26. In reciprocal views from the south, such as near Birchmoor, on the motorway bridge and from both arms of Green Lane, the site is seen as a prominent termination of the rising land. These views also allow a good appreciation of the swathe of open land continuing beyond the motorway, so that Parcel 7 is seen as part of the wider gap.
27. The appellant's 'qualitative assessment' of the current perception of the gap between the settlements and of the likely effect of development<sup>7</sup> seeks to analyse the role of the site in sequences of views along public routes. The assessment places considerable emphasis on the limited change to the identity of Tamworth rather than on the reduction of the gap. When analysing the gap it gives significant weight to inability to perceive the edges of both Polesworth/Dordon and Tamworth at the same time from particular viewpoints. I find that this does not pay enough regard to the experience of people moving

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<sup>5</sup> Appeal Ref APP/R3705/W/15/3136495

<sup>6</sup> Reflecting guidance in *Planning on the Doorstep: The Big Issues - Green Belt* LGA /PAS February 2015

<sup>7</sup> Landscape Statement of Evidence by Nicola Jacob CMLI, paras 4.32-4.100

between the settlements and across the gap, and their appreciation of having left one place and arrived at another. It would not be essential for both edges of the gap to be seen together to have a clear understanding of the extent of the space available.

28. The assessment acknowledges that even allowing for planting in accordance with the submitted indicative plans, the appeal proposal would be clearly seen from Green Lane and from houses within Stonydelph, from roads and houses in and around Birchmoor including from the motorway bridge, and also from Hermitage Lane to the east of the motorway. At closer range there would be radical change experienced by users of the footpath around the perimeter of the site and of the Tamworth road spur, as well as by the many users of the sports facility. All of these would be highly conscious of the further expansion of Tamworth and of the reduction in the gap.
29. The assessment of the gap by those passing along the B5000 stresses the general degree of enclosure of the route by tree planting on each side. I agree that open views from the road are limited, mainly to junctions with side roads and the crossing of the motorway bridge. But I find it important that the motorway is perceived as an incident along the route, rather than a boundary or demarcation between different character areas that would define separate settings for Tamworth and Polesworth.
30. At the Tamworth end, the suburban character of Stonydelph is identifiable. At the junction with Chiltern Road, the view of the sports field between a thin line of trees confirms a transition to open land. The study acknowledges that there would be sight of the proposed development across the sports ground. The sports pavilion is prominent from the junction with the spur road, but despite the falling landform I consider that the development would also be seen. Such views might well be at least partly screened, and relatively fleeting if from a motor vehicle. But they would allow a perception of the expansion of suburban development and its much greater closeness to Polesworth.
31. In terms of travel time by motor vehicle between the towns, the already short distance along the B5000 would become very brief indeed. Local people, to whom the retention of a meaningful gap is of greatest relevance, would be most aware of the reduced gap, but anyone moving between the settlements would be likely to remark upon the narrowness of the break.
32. There is strong evidence of longstanding local concern about the need to maintain a separate identity for Polesworth with Dordon as a small rural place. The second component of the CS Spatial Vision is 'that the rural character of North Warwickshire will be retained and reinforced to ensure that when entering the Borough it is distinctive from the surrounding urban areas'.
33. For the above reasons, I find that the appeal proposal would not significantly affect the identity of Tamworth, but would result in a major reduction in the space between settlements, to the extent that there would no longer be an adequate 'meaningful gap' and the separate rural identity of Polesworth with Dordon would be weakened. The proposal would therefore be contrary to CS Policy NW19. It would also conflict with emerging NWLP Policy LP5, to which reduced weight applies pending adoption of the plan.

## ***Effects on Infrastructure***

### *Highways*

34. The application was supported by a full Transport Assessment ('TA'), to which an Addendum was made during consideration by the Council.
35. The Council's appeal statement had expressed concern that highways impacts had not been resolved with WCC or SCC as highways authorities for, respectively, the NWDC area and for Tamworth. Tamworth Borough Council ('TBC') also raised objection that SCC's concerns had not been addressed.
36. The Highways SCG with WCC was concluded shortly before the Hearing and records that all matters were now resolved to WCC's satisfaction, subject where necessary to planning obligations and conditions. The SCG includes an updated version of the TA and an amendment to the submitted access plan<sup>8</sup>, which shows enhanced and extended footway works near the access. The Highways SCG with SCC was submitted at the Hearing, where it was confirmed that the one matter outstanding, relating to impact on a junction on the B5000, had now been resolved following further analysis.
37. The executed UU to WCC commits to the required contributions to improve routes to schools by cycle and on foot, to improve bus stops near the site entrance, to allow early mitigation work for junction improvements in Polesworth and to enhance public rights of way in the area of the site. It was agreed at the Hearing that the formation of links to Green Lane, and hence to the Stonydelph footpath network, could be secured by condition.
38. On the above basis, I am satisfied that the appeal proposal would not have adverse impacts on the safe and convenient operation of the local highway network and would support access by sustainable modes of travel. The proposal would therefore comply with the access provisions of CS Policy NW10, and of national policy<sup>9</sup>.
39. I appreciate the concerns raised at the Hearing by the Council and by TBC that the late resolution of these issues had not allowed adequate opportunity for any further independent verification of the solutions. However, the case for both Councils had indicated that the need was to resolve issues with the respective highway authorities, which has now been achieved. There are insufficient grounds to suggest that any further interrogation would be productive or likely to result in a different conclusion.

### *Education*

40. The Council's appeal statement had expressed concern that education impacts had not been mutually resolved by the appellant with WCC and SCC as the respective education authorities for the adjoining boroughs.
41. The Education SCG concluded with WCC confirms that there is sufficient primary school capacity in Polesworth to absorb any demand arising from the proposed development, but that additional capacity would be necessary at Polesworth Secondary School. The completed UU commits to the required financial contribution for this, as well as funding for Special Education Needs at both primary and secondary levels.

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<sup>8</sup> Plan ref 173236\_A01 Rev E

<sup>9</sup> NPPF paras 108-110

42. Representations on the appeal by SCC had pointed to joint working with WCC on planning for the NWLP allocations, particularly the land at Robey's Lane, to ensure adequate education provision across both NWDC and Tamworth areas. By the time of the Hearing SCC no longer sought financial contributions to meet the full anticipated demand from the development, but remained concerned that the agreed arrangements for the Robey's Lane allocation could be undermined by earlier completion of the appeal development.
43. It is common ground that SCC has no statutory role in meeting education needs for the appeal site. It is also accepted that parental choice allows children to attend schools on opposite sides of the county boundary, and that this currently occurs in both directions. It appears that the actual availability of places at any particular school is a moving target. I have limited detailed information on the joint working on the Robey's Lane site, but it seems likely that when and if planning permission is granted for its development, the situation would have to be assessed at that time and detailed provision secured accordingly. There is insufficient reason to conclude a lasting harmful effect on Tamworth provision by permitting the appeal proposal.
44. The appellant's obligation provides a justified response to the mitigation of education impacts. The proposal would comply with the infrastructure requirements of CS Policy NW22.

#### *Other infrastructure*

45. It is accepted that the proposed provision on the site of 40% affordable housing and open space and a play area, to be secured by the UU to NWDC, would comply with the Council's relevant policies and with the legal tests for planning obligations. I find no reason to disagree. The UU would allow for potential use of affordable units to meet Tamworth's need should that be justified at the time.
46. I also accept that the other obligations of that UU, involving financial contributions to mitigate impacts on hospital, healthcare and police services would be policy and legally compliant.
47. The Council accepts the appellant's case that the proposal would enhance local biodiversity. In the absence of evidence to the contrary, I find insufficient justification for the obligation contained in the UU to WCC to fund biodiversity offsetting. This obligation would not provide a reason to support the grant of planning permission.

#### *Conclusion on infrastructure impacts*

48. I conclude that with the exception of the proposed biodiversity offsetting obligation, the proposal would provide adequate justified mitigation for the effects of development on local infrastructure.

#### ***Other matters***

49. The appellant's Landscape and Visual Impact Assessment ('LVIA') predicts a moderate adverse effect on immediate local landscape character, reducing to minor in the long term. I endorse the Council's consultants' response that this would underplay the long-term effect of the complete change of character of this part of the agricultural land. However, I accept the main parties' agreement that the landscape effects would be localised and limited in their

wider effect. The LVIA's assessment of visual effects would be reasonable, including major/moderate medium-term adverse effects on users of the public footpath around the site and on residents of Tamworth Road, reducing with mitigation to moderate adverse over the long term, or moderate reducing to minor in the case of Green Lane, with adverse effects on users of the sports ground expected to be moderate, reducing to minor-negligible.

50. The appellant suggests that the loss of best and most versatile land would have negligible economic consequences, and the Council does not object on this ground. The Council also accepts that a suitable layout and design could be secured at reserved matters stage and that, subject to necessary conditions, there would be no adverse effects in respect of increased risk of flooding, the significance of heritage assets and use of the sports ground. The Council concludes that the effect of motorway noise, which had been raised in representations, could be adequately addressed by details of ground form and acoustic boundary treatments, secured by conditions, and by further details of building elements at a later stage. Subject to those provisions, I agree that these matters would not provide reasons to reject the appeal proposal.

### ***Balance of considerations***

51. The Planning SCG records the main parties' agreement that the 'tilted balance' defined by NPPF paragraph 11(d) should apply in this case. This follows from an earlier appeal decision for employment development at Daw Mill Colliery, Arley,<sup>10</sup> in which the Secretary of State had agreed with the Inspector that CS Policies NW2 and NW10 should be regarded as out-of-date insofar as the settlement hierarchy relies on development boundaries or defined areas on the Proposals Map. This conclusion was accepted by the Council and endorsed by the Inspector in a subsequent appeal for residential development at St. Lawrence Road, Ansley<sup>11</sup>. I agree that any conflict with these policies, and the related distribution of housing set out by Policies NW4 and NW5, must also be afforded reduced weight in the current appeal.
52. Although the examination of the NWLP has progressed since those two decisions were made, as outlined earlier I consider that the emerging policies can only receive relatively limited weight in this decision. I do not accept submissions made at the Hearing, which had not been included in the Council's notional reasons for refusal or in its written case, that the proposal could be seen as premature in connection with the adoption of the NWLP. Neither the scale of the proposal nor the NWLP's current stage of progress would accord with the limited circumstances identified by the NPPF to justify refusal on grounds of prematurity<sup>12</sup>.
53. For the above reasons I accept the agreed position on the application of the 'tilted balance' in this case, which means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

### *Housing supply*

54. A main benefit offered by the appeal proposal would be the addition of up to 150 dwellings to the supply of housing, which would accord with the

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<sup>10</sup> Appeal Ref APP/R3705/W/16/3149827

<sup>11</sup> Appeal Ref APP/R3705/W/17/3189584

<sup>12</sup> NPPF para 49

Government's objective of significantly boosting the supply of homes. In the St. Lawrence Road appeal, the Inspector decided that there was no point in examining the supply of housing in detail, as the tilted balance was already engaged. But in the present case, I accept the appellant's submission that the precise degree of weight to be attached to this social benefit is to a certain extent influenced by the current supply of housing in the area, which was debated at the Hearing.

55. The SCG records agreement by the main parties that the housing requirement should be based on a figure of 264 dwellings per annum ('dpa') over the five-year period 2018-2023. This figure, which is an increase over the CS figure, has been used for the submission NWLP requirement of 5808 dwellings to 2033. The Examining Inspector's Progress Note accepts the submission figure but advises that the overall requirement should be confirmed to include unmet need from the Birmingham area, which had been proposed as a separate aspiration. However, he recognises that the increased requirement might pose difficulties in delivery in the early years, which could be addressed by means such as a stepped delivery trajectory. In response to the Progress Note, both main parties have noted the need for an increased overall requirement, but have not sought to depart from the 264 dpa annual requirement for the period under review for the appeal. I accept that this is the most reasonable way to proceed until the delivery trajectory of the full NWLP requirement is finally resolved.
56. The examination will also provide the appropriate forum to interrogate the full detail of the Council's stated supply, rather than the more constrained setting of a S78 appeal. Until the outcome of this element of the examination process is known, conclusions on the ability to show a deliverable five-year supply will not be fully definitive. However, it is possible to reach broad conclusions on the evidence presented to the appeal Hearing.
57. Based on the requirement of 264 dpa, the Council's Housing Land Supply Report of March 2018 had shown a deliverable supply of 4.8 years', including a 20% buffer to reflect previous under-delivery. However, a subsequent update for the NWLP examination, using a 5% buffer, indicates 5.5 years' supply. The Progress Note confirms the Inspector's current view that the latter is the correct buffer to be applied. This is accepted by the appellant in their response to the Note. The published results of the Housing Delivery Test now also indicate use of a 5% buffer. Therefore, for the purpose of the appeal, I consider that the starting point in assessing the supply should be the Council's most recent statement.
58. In disputing the Council's published supply, the appellant challenges the forecast outputs from 7 sites, to which the Council responded at the Hearing. Six of the sites are proposed for allocation by the NWLP, but several have already received outline planning permission or are the subject of applications. Of these, the evidence of unresolved issues on affordable housing provision at Daisy House Farm Phase 2 (NWLP Site H18) suggests that the Council's forecast of progress at the site might be over-ambitious and that a year's slippage (24 units) should be deducted. The completion of S106 agreements at Orton Road (H26) and Barn End Road (H27) gives sufficient confidence of likely delivery. Despite the Council's view that once an outline application at Church Road/Nuneaton Road, Hartshill (H19) was approved, delivery would make up

the forecast output, I consider that the appellant's assessment is more realistic and that 80 units should be discounted from the supply.

59. Of the two sites that were not subject to planning applications at the time of the Hearing, there was very little evidence to give confidence of delivery at Shuttington Village Hall (H25), so that all 24 units should be discounted. The other site, Land to the East of Polesworth and Dordon (H7) was said to have co-ordinated action by landowners and active involvement by Homes England, but submission of an application was intended to follow adoption of the NWLP. Slippage appears very likely, so that there is insufficient evidence to include the predicted 150 units in the supply at present. The Council gave assurances that the final site, Land off Coleshill Road, had been built out, so that no reduction in supply would be warranted.
60. The omission of 278 units would reduce the predicted supply to 1912 homes, which would equate to some 4.75 years, based on a 5% buffer. The inability to demonstrate a five-year deliverable supply provides a further ground to confirm that the 'tilted balance' is engaged. However, the evidence shows that the situation could change quite rapidly, subject to progress on a very small number of key sites or to early adoption of the NWLP.
61. The provision of the proposed 150 units attracts significant weight in the planning balance. The current modest deficiency in supply does not add substantial extra weight to the benefit. Moreover, the appellant's worst-case prediction based on a 5% buffer would be a supply of 4.3 years. Even if the appellant's submissions on every site were to be accepted, the difference in supply would not be great, and would not further significantly increase the weight to be given to this benefit.

#### *Other benefits*

62. The provision of 40% affordable housing would meet the expectation of CS and supporting supplementary policy, but it would still represent an important social benefit in the face of an identified local shortfall, to which significant weight must be given. Other provisions of the UUs are primarily to mitigate the development's own impacts and cannot be taken as benefits. However, the provision of play facilities and open space that might draw some use from Stonydelph residents can be taken as a very modest social benefit. Similarly, improvements to bus stops, cycle routes and rights of way could have some wider use that would provide some social and environmental benefit.
63. There would be some short-term economic benefit from the investment in construction and also some moderate social and economic benefits from the increased support by future residents for local businesses and community groups. However, similar benefits could be secured by development in accordance with the adopted and emerging plan, which tempers the weight to be given to them. Economic benefits would not arise from increased Council Tax revenue, which would cover the service needs of the development's residents, and New Homes Bonus payments, of which there is no evidence that would be used to make the development acceptable in planning terms.

#### *Balance*

64. The Council has requested that a decision on this appeal should be deferred to await the conclusions of the NWLP examination in respect of the main strategic

issues. I acknowledge that the comprehensive review of all evidence for the examination could well lead to differing conclusions on the housing land supply and on the merit and extent of any gap between settlements. However, I am satisfied that the evidence before me allows an informed decision to be made on the basis of current and emerging policy and other material considerations, and that it is not necessary to await the further outcomes of the examination.

65. Set against the benefits outlined above would be the considerable conflict with a longstanding planning objective and key element of the CS spatial vision arising from the reduction of the gap between settlements and consequent weakening of the separate rural identity of Polesworth/Dordon. The resulting social and environmental harm is a matter of substantial weight. There would also be minor environmental and social harm arising from the acknowledged adverse local landscape and visual effects.
66. The benefits related to the provision of additional houses would be predicated on their early delivery at a time when existing strategic policies are seen as out-of-date and the housing supply is slightly below the required minimum. However, it is clear that the Council has worked to address those issues through the submission of the NWLP, which is at a relatively advanced stage and could soon be adopted. By contrast with the immediate benefits, the harmful effects of building the houses in the wrong location would be permanent.
67. In my judgement, the lasting harmful impacts would significantly and demonstrably outweigh the benefits. Thus there are no material considerations that would outweigh the proposal's conflict with the policy of the CS and of the emerging NWLP.

### **Conclusion**

68. For the reasons set out above, I conclude that the appeal should be dismissed, and outline planning permission refused.

*Brendan Lyons*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Morag Ellis	Queen’s Counsel
Cameron Austin-Fell	RPS Planning & Development
Paul Hill	RPS Planning & Development
Nicola Jacob	Randall Thorp Landscape Architects
Pauline Randall	Randall Thorp Landscape Architects
Mike Axon	Vectos
Steve Clyne	EFM
Kate Barker	Eversheds Sutherland (International) LLP
Zoe Curnow	Taylor Wimpey UK Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Steve Maxey	Corporate Director -Environment
Dorothy Barratt	Forward Planning Manager
Jeff Brown	Head of Development Control
Philip Smith	Land Use Consultants
Rebecca Knight	Land Use Consultants

INTERESTED PERSONS:

Janet Neale	Warwickshire County Council
Joanne Archer	Warwickshire County Council
Simon Hill	Staffordshire County Council
Louise Andrews-Gee	Staffordshire County Council
Andrew Collinson	Tamworth Borough Council
John Smitten	Polesworth Parish Council
Leenamari Aantaa-Collier	Shakespeare Martineau Solicitors
Mike Smith	George Eliot Hospital NHS Trust

**DOCUMENTS**

Submitted at the Hearing:	
1	Council’s letter on CIL compliance, dated 5 November 2018
2	Environment Bank quote for biodiversity offsetting, dated 9 April 2018
3	Appellant’s Housing Land Supply Update 6 November 2018
4	LUC Memo: Key issues and points of difference between Appellant and Council, dated 23 October 2018
5	Highways Statement of Common Ground – Staffordshire County Council
6	Heat map: Nethersole Primary School
7	Meaningful Gap plan
8	Council report, October 2018: North Warwickshire’s Five Year Housing Land Supply as at 31 March 2018
9	Appeal Decision Ref APP/C1950/W/17/3190821
10	Appeal site delivery trajectory
11	Schedule of potential pre-commencement conditions, signed on behalf of appellant

Submitted after the Hearing:	
12	E-mail from Eversheds Sutherland (International) LLP dated 16 November 2018 with certified copies of executed Unilateral Undertakings
13	Council's response to Examining Inspector's Progress Note, letter dated 17 January 2019
14	Appellant's response to Examining Inspector's Progress Note, letter dated 18 January 2019