Planning Inspectorate

Appeal Decision

Site visit made on 31 March 2026

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2026

Appeal Ref: 6000926
Land At Junction Of Harrison Way And Meadow Lane, St Ives PE27 4LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Edward Harper (Gladman Retirement Living) against the decision of Huntingdonshire District Council.
- The application reference is 24/02275/FUL.
- The development proposed is development of Use Class C2 Residential Accommodation with Care comprising of apartments for the elderly, communal facilities, associated landscaping, access roads, car parking and services.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice listed ten reasons for refusal. Subsequently, the appellant has provided evidence in respect of the management of surface water drainage, which the Council considers has addressed the matter. Therefore, it is no longer contesting the fourth reason for refusal, and I do not address this as a main issue, but within Other Matters below.

Main Issues

3. Consequently, based on the other reasons for refusal, the main issues are:

- The effect of the proposal on the landscape character of the area;
- Whether the site would be suitably located to access local facilities and would be acceptable in terms of highway safety;
- Whether, if necessary, the proposal would make adequate provision for affordable housing, having regard to relevant development plan policies;
- The effect of the proposal on recreational users of the adjacent lake;
- Whether the standard of accommodation for prospective occupants would be acceptable, with respect to noise levels;
- The effect of the proposal on the site's capacity to support biodiversity;
- Whether biodiversity net gain would be delivered, and;
- The effects on protected species.
- Whether the proposal would adequately address waste management.

Reasons

Landscape Character

4. The appeal site is located to the south-eastern side of St Ives, next to the roundabout junction of Harrison Way and Meadow Lane. The land extends to some 1.17 hectares at the edge of a man-made lake. A dense copse of trees separates the site from Harrison Way, much of which is outside the site but within the appellant's ownership as indicated by the blue line on the submitted plans. The site is enclosed by a mature hedgerow to Meadow Lane and otherwise is open to the lake on its northern and eastern sides. The interior of the site is under regrowth following recent clearance of vegetation.

5. The site is described by the Council as 'greenfield urban land' forming part of the wider Meadow Lane Gravel Pits County Wildlife Site and the Great Ouse Valley Green Infrastructure Priority Area. The main built-up area of St Ives lies beyond Harrison Way to the west, with the town centre around 300 metres walk away to the south-west and mainly residential development to the north-west. To the opposite side of Meadow Lane are a mix of office, residential and commercial uses.

6. The Council sets out that the site lies beyond the built-up area of St Ives and should be regarded as being in the countryside for planning purposes. The development plan for the area is Huntingdonshire's Local Plan to 2036 (May 2019) (the HLP). Paragraph 4.84 of the HLP defines a built-up area as 'a distinct group of buildings that includes 30 or more homes' and that 'land which relates more to the group of buildings rather than to the surrounding countryside is also considered to form part of the built-up area.' It adds that a built-up area will exclude agricultural land, woodland, meadow, areas of water and natural habitats that penetrate the built form, noting that these spaces can provide a visual buffer between built development and the open countryside, softening the visual impact and linking the built-up area with its rural context.

7. In this case, the site lies within the Great Ouse Valley Landscape Character Area (LCA)[1] and is described as forming part of the floodplain of the River Great Ouse, visually prominent from surrounding roads and public footpaths and perceived as part of the Great Ouse Valley landscape which forms the eastern fringe of St Ives. Harrison Way and Meadow Lane together form a clear physical edge to the built-up area of St Ives, with the site being contiguous with the series of lakes which extend eastward and form an expansive, natural area enclosed by boundary vegetation. On the evidence before me, I find that the site is physically distinct from the built-up area and should be regarded as being in the countryside.

8. Policy LP3 of the HLP sets out that development in the Great Ouse Valley will be supported where it contributes to the landscape, wildlife, cultural and historical value of the area. Policy LP10 sets out that development in the countryside will be restricted to the limited and specific opportunities as provided for in other policies of the plan, and where it meets other criteria relating to agricultural land, character and environmental impacts. The site does not offend criterion (a) as the site is not regarded as agricultural land. Criterion (b) requires development to recognise the intrinsic character and beauty of the countryside, consistent with Paragraph 187 of the National Planning Policy Framework (the Framework).

[1] As set out in the Landscape and Townscape Supplementary Planning Document (2022)

9. Policies LP11 and LP12 support development that responds positively to its context and has drawn inspiration from the key characteristics of its surroundings, including the natural, historic and built environments, to help create distinctive, high quality and well-designed places

10. The characteristics of the LCA include distinctive vegetation assemblages; willow and poplar trees which flourish in the valley and increase its sense of identity and enclosure and are complemented by reeds, rushes and sedges. The ecological value of numerous sites is recognised through various designations, including the Meadow Lane Gravel Pits County Wildlife Site. The Council points to the successful restoration of the former gravel pits as nature reserves and fishing lakes which have integrated into the landscape and become points of high landscape quality in their own right, as well as catering for a wealth of wildlife and providing recreational opportunities. Key issues for the LCA include protection of both its landscape and biodiversity benefits.

11. The site is close to the town centre, with development to the opposite sides of both Meadow Lane and Harrison Way, but as set out above, these roads also form a clear demarcation between the built-up area and the natural surroundings of the lake. From within the site and on the northern side of the lake, the perception of the built-up area is limited to glimpses of the rooflines of buildings on Meadow Lane above the boundary vegetation. The busy road corridor of Harrison Way is significantly screened by trees, and whilst traffic noise is audible, the site and immediate surroundings of the lake exhibit a tranquil and natural character.

12. The proposal comprises two three-to-four storey buildings providing a total of 86 apartments and various communal, staff and administrative facilities. The buildings would be set into the site and parallel to the road, with parking towards the front and landscaping to all sides. Both buildings would occupy substantial footprints, each some 55m in width and between 35 and 50 metres deep, and separated by a 17m wide courtyard. The parapet levels of the flat roofed buildings would stand between 8.6m and 12m high. Access would be taken from two entrance points on Meadow Lane.

13. The scale and form of the buildings would have a clear urbanising effect on the site and would represent a wholesale change from the open, undeveloped and natural character which exists. The development would be undoubtedly prominent from Meadow Lane, from the lake and points to the north. It would represent a significant encroachment into this natural space, with the broad expanses of the buildings having a dominant and imposing presence for recreational users of the lake. The scale and intensive nature of the development would severely detract from the tranquillity and natural character of the lake environs.

14. I have had regard to the Landscape and Visual Impact Assessment (LVIA) produced by the appellant. Although the Council has criticisms of the LVIA's failure to acknowledge site clearance works which occurred in March 2024, it agrees with the finding of medium value for the site and immediate landscape. A number of the viewpoints are also challenged on the basis that they show the site artificially more exposed to view from Meadow Lane, and conversely the buildings on Meadow Lane being more exposed to view from the lake, due to the clearance works. The Council points to the effect that further regenerative growth would have on the site in terms of screening it from Meadow Lane.

15. Visibility of the site is ultimately limited to points immediately surrounding it, and there would not be adverse effects on important long distance views. The proposal also includes a Statement of Landscape Design setting out principles for the landscaping of the site, based on a strong relationship with the lake and proposing wildflower meadow and wetland seeding along the lakeside, using locally found species, reinforcing the woodland belt to the west and increasing biodiversity. I do not doubt that an attractive landscaping scheme could be delivered and that the development could achieve a high quality of design in terms of the overall layout, the articulation of the buildings and careful use of materials. This would have some mitigating effect on the overall perception of the development from Meadow Lane.

16. I accept that, for those walking and driving on Meadow Lane, views over the lake at present are fleeting through gaps in the vegetation, and the context to the south includes modern urban development. However, the substantial scale of the development would still be a defining factor, and the LVIA accepts that landscape effects at the site level, and visual effects for receptors on Meadow Lane would be Moderate/Minor Adverse at completion and reducing to Minor Adverse after 15 years, even having regard to the effects of proposed landscaping.

17. However, I am not persuaded that effects on users of the lake would be as low as Moderate / Minor Adverse at Year 15 or the suggestion that their focus would be on sailing rather than the surroundings. The surroundings are an important aspect of the experience of users of the lake, and the proposal would introduce an extensive scale of development where none exists. Landscaping to the lakeside would not screen the buildings to any substantive degree. This would result in significant, permanent adverse visual effects for users of the lake that would harmfully detract from their experience of the natural, tranquil character of the lake landscape.

18. For these reasons, I conclude that the proposal would cause harm to the landscape character of the area, in conflict with the aforementioned aims of Policies LP3, LP10, LP11 and LP12 of the HLP to protect landscape character.

Accessibility and Highway Safety

19. It is common ground that the proposed use would constitute a residential institution falling within the C2 use class. Policy LP2 seeks to concentrate development in locations which provide, or have the potential to provide, the most comprehensive range of services and facilities. Policy LP26 specifically addresses specialist housing and sets out, at criterion (e), that new Class C2 residential institutions will be supported where they are easily accessible to shops, services, community facilities, public transport and social networks appropriate to the needs of the intended occupiers, staff and visitors.

20. There is no dispute that the site is physically close to the town centre of St Ives, which is agreed by the parties to be as close as 300m away on the opposite side of Harrison Way. In this respect, the site's location would align with the strategic aims of Policy LP2 to concentrate development in the most sustainable locations. However, the Council's concern relates to the accessibility on foot to and from the town centre by prospective occupants, staff and visitors of the development.

21. The existing pedestrian infrastructure on Meadow Lane comprises a footpath along the length of the southern side, with a short section on the northern side between the roundabout and an existing (closed off) entrance to the appeal site. The roundabout has crossing points on each arm, comprising dropped kerbs and island

refuges to the southern and northern sides. The western side, closest to the town centre, has only partial pedestrian crossing infrastructure with a dropped kerb to the northern side, but not to the central island or the southern footpath. On the eastern side, to Meadow Lane, the dropped kerbs to not align with the central island, which consequently does not form a refuge for pedestrians. I saw no signage identifying these crossings for approaching drivers. There is a signalised pedestrian crossing on Harrison Way around 200m to the south where the guided busway crosses.

22. The evidence before me is that Harrison Way, Meadow Lane and the roundabout are subject to constant traffic, which at times becomes heavier leading to long queuing. Meadow Lane is also used by heavy goods vehicles accessing industrial uses to the eastern end of the road, and traffic accessing the Park and Ride facility. At my visit during the early afternoon, traffic was constant and busy.

23. The proposed use would cater for residents aged over 65 years, and who require increased levels of care. The Council acknowledges that given the profile of residents, it is unlikely that they would leave the site unaccompanied by staff or visiting relatives. However, the facility would be a significant development adding to the potential number of pedestrian movements, including accompanied residents, but also staff and visitors coming from the town centre.

24. The application proposes improvements to the pedestrian infrastructure, including a new signalised crossing around 20 metres back from the roundabout on the southern arm (Harrison Way). The footway to the northern side of Meadow Lane would be upgraded to connect to the proposed entrance to the development, and the existing crossing to the eastern arm of the roundabout would have a central pedestrian refuge added. In combination, the works would provide a pedestrian route via Meadow Lane and around the southern side of the roundabout to reach the existing footways leading to the town centre.

25. Cambridgeshire County Council (CCC) as the local highway authority issued an initial holding objection on the basis that further information was required to assess the impact of the proposed signalised crossing on the operation of the highway network, including analysis through the St Ives Paramics Model, reconsideration of the sites considered comparable in the TRICS data. The appellant has provided traffic survey and queue length data at appeal stage which shows low numbers of pedestrians, though this is noted as being based on a single day survey. CCC also points to there being no indication of predicted pedestrian movements arising from the development.

26. The appellant has sought to provide further evidence at final comments stage, including a Stage 1 Road Safety Audit. However, this is substantial new and highly technical evidence submitted at a late stage in the appeal process, at a point beyond which the Council and other interested parties, such as CCC, are in a position to comment on it. As such, there would be potential prejudice to other parties were I to take this evidence into account. Therefore, I have limited my consideration of the appellant's final comments to direct responses to the preceding evidence.

27. The introduction of a signalised crossing would have some effect on traffic flows, but it is not clear from the evidence what the extent of that effect would be. As a result, I am not persuaded by the view of the appellant's consultant that use of the signalised crossing would be limited and with only modest, brief effects on traffic

flows. Consequently, there is uncertainty as to whether the signalised crossing would be appropriate in the indicated location, or indeed any other location around the roundabout.

28. The existing pedestrian infrastructure, with a lack of continuous, suitably sized and surfaced footways and convenient crossing points over Harrison Way, would not be conducive for access to the town centre on foot by proposed residents, particularly for those less physically able or using mobility vehicles.

29. However, although the proposed infrastructure would, in principle, provide a more suitable route to the town centre, the evidence before me does not demonstrate with sufficient clarity that the proposed signalised crossing would not have adverse effects on the operation of the highway network or the extent of those effects. As such, it is not clear that the proposed infrastructure would be delivered in the manner and location proposed or that it would not have unacceptable impacts on highway safety.

30. For these reasons, I conclude that it is not demonstrated that the proposal would be easily accessible to local shops and services appropriate to the needs of residents, staff or visitors of the development, in conflict with the aforementioned requirements of Policy LP26(e). There would also be conflict with the Framework in terms of its requirements that safe and suitable access to the site can be achieved for all users.

Recreational Use of the Lake

31. The adjacent lake is indicated to be used for recreational sailing, swimming and paddleboarding. Hunts Sailing Club is located directly across the lake from the appeal site. Concerns have been raised regarding the potential impact of the proposed buildings on wind flows across the lake and the consequences of this for sailing activity if it would reduce the operable area of the lake.

32. The appellant has produced a Wind Microclimate Assessment (WMA). This was initially submitted late in the application process and not considered by the Council on the basis of there being insufficient time to consult relevant parties. I note initial issues with the availability of the WMA at appeal stage, but I am now in receipt of comments from Sport England as the relevant consultee, and the Royal Yachting Association (RYA), as well as final comments from the Council. The WMA has also been available to view for other interested parties to comment. As such, I am satisfied that no party would be prejudiced by my taking the WMA into account.

33. The findings of the WMA are that wind speeds on the lake would not be substantially altered by the development. It indicates that the buildings would affect areas of the lake closest to the appeal site that are already subject to low wind speeds and not used for sailing. The overall assessment is a slight reduction in the amount of the lake which experiences suitable sailing wind speeds during autumn and winter, and a slight increase in spring and summer.

34. The RYA has pointed to the potential de-stabilising effect of the proposed buildings on wind flows across the lake and the safety implications this would have for sailors, particularly novices in training. It has further commissioned a review of the WMA. The review accepts the findings provide a useful initial indication of how the development may affect wind conditions across the lake, but it is critical of the methodology for failing to identify clearly defined receptors and usage patterns,

using land-based recreation as a measure of wind speeds, and failing to fully account for wind variability and unsteadiness across the lake which are factors relevant to sailing. Ultimately, the RYA accepts that it is plausible that the proposed development may not result in a significant adverse effect on the recreational use of the lake, but that this has not yet been robustly demonstrated. Sport England has supported the views of the RYA.

35. The lake has obvious recreational value for water-based leisure activities, and Policy LP10(c) of the HLP sets a requirement that developments do not give rise to impacts that would adversely affect the use and enjoyment of the countryside by others. This echoes the Framework, which seeks to guard against the unnecessary loss of valued facilities and services and highlights the importance of access to a network of high quality open spaces and opportunities for sport and physical activity for the health and well-being of communities.

36. The evidence before me indicates that the proposal would have localised, but potentially noticeable effects on the wind microclimate across the lake. The assurances given in the WMA that these effects would be negligible are challenged by RYA and Sport England, who point to shortcomings in the methodology employed. I note that there is no agreed industry standard for wind microclimate assessment, and that the matters raised by RYA in its review are intended to seek further, site-specific analysis. The appellant indicates these matters have been addressed by the WMA, but it notably does not identify receptors – namely those sailing on the lake – or assess the degree of impact the change in wind speed or variability would have on those receptors, beyond finding a small change to the physical area suitable for sailing. Moreover, the assessment of wind speeds is based on the Lawson comfort criteria, a measure of the pedestrian environment that is quite distinct from sailing in terms of the relevance of wind to use and enjoyment of a space.

37. I afford weight to the comments of the RYA and Sport England as informed bodies in this matter, and note in particular the safety risks that increased wind variability poses for sailing, particularly for novices. Consequently, I am not satisfied that the WMA presents a sufficiently robust assessment of the potential impact of the development on users of the lake as a result of changes to the wind microclimate. Therefore, on this issue, I conclude that the proposal fails to demonstrate that the development would not adversely affect the use and enjoyment of the countryside by others, contrary to Policy LP10(c).

Standard of Accommodation

38. The Council's concern relates to noise impacts for occupants from external sources. The appellant's noise impact assessment (NIA) identifies traffic noise from Harrison Way and Meadow Lane as the dominant sources of noise. The potential for noise to be generated by mechanical plant within the building is also raised.

39. The NIA indicates that rooms to the western side of the building, closest to Harrison Way, would experience the highest noise levels, and that a majority of the rooms would exceed WHO noise levels across the development would require façade mitigation in the form of specified window configurations and trickle vents. Those windows would not achieve suitable internal sound levels with open windows, and so would require windows to be closed. The consequence of this is that alternative, mechanical ventilation would be required to ensure suitable fresh airflow and to

prevent overheating. Given the expected age and health profile of residents, a suitable environment with respect to noise, heating and ventilation is an important consideration.

40. The development would be located where residents would be exposed to noise sources with potentially adverse effects. The NIA concludes that, subject to the proposed acoustic measures, the overall noise impact would be at a No Observable Adverse Effect Level. However, whilst the appellant has suggested a mechanical ventilation system, I have no details as to what such a system would entail, including the location of equipment both internally within individual units and externally on the building. The noise impacts of any such equipment have also not been considered. Given the extent to which mechanical ventilation is indicated to be required across the development, I am not satisfied that this is a straightforward matter capable of being dealt with by condition. In the absence of satisfactory details, the proposal does not demonstrate that residents would enjoy a satisfactory standard of accommodation with respect to noise, heating and ventilation.

41. Therefore, I conclude that the proposal would conflict with Policy LP14 of the HLP, which supports proposals where a high standard of amenity is provided for all users and occupiers of the proposed development, including that predicted noise and overheating impacts will be made acceptable.

Affordable Housing

42. The main parties disagree on whether the proposal generates a requirement for the provision of affordable housing. Policy LP24 sets out that in order to assist in meeting the identified local need for additional affordable homes, a proposal which includes housing development will be required to provide a range of affordable housing types, sizes and tenures, adding that the affordable housing provision may include specialist or supported housing where an identified need exists. The policy requires 40% affordable housing to be provided on sites of 11 or more homes or 1001m^2 or more of residential floorspace.

43. It is common ground that the proposed development would fall within the C2 use class, but the Council argues that Policy LP24 applies to all housing development and so includes the proposed scheme.

44. Policy LP26 is also cited by the main parties. It addresses specialist housing and is divided into two sections - Self-Contained Specialist Housing and Residential Institutions. The former is defined as being within the C3 use class, with the latter being C2. Criterion (c), relating to self-contained specialist housing under Class C3, requires the proposal to incorporate a mix of tenures including affordable homes in accordance with Policy LP24. There is not an equivalent requirement under criteria (e) to (g) relating to C2 residential institutions.

45. That these two forms of specialist housing may have different requirements in respect of affordable housing provision is illustrated by the supporting text at paragraph 7.28, where it states that ‘developers are encouraged to seek pre-application advice to establish whether their proposal may be classified as C2 or C3 due to the implications for the provision of affordable housing and other developer contribution matters.’

46. The appellant sought such pre-application advice from the Council, with the response being that ‘if development is confirmed as being Use Class C2 then we

would not seek affordable housing contributions.' The Council argues this was an informal opinion given without prejudice to any subsequent decision. At appeal, it has provided comments from its Housing Strategy Officer which sets out a need for extra care housing, and that an affordable housing contribution is required.

47. The interplay between Policies LP24 and LP26 is not considered in detail by the main parties. I read Policy LP24 as seeking specialist or supported housing as part of the affordable housing offer, and I glean this to be the approach of the Housing Strategy Officer, albeit their comments are not comprehensive in explaining the overall approach of the Council to the particular circumstances of this case.

48. My reading of Policy LP26 and its supporting text is that there is likely to be difference in practice between self-contained specialist housing and residential institutions in terms of affordable housing provision. The Council argues that the policy does not explicitly preclude the provision of affordable housing as part of Class C2 residential institutions, but it pointedly does not include the requirement to do so that is set out in the preceding section for self-contained specialist housing under Class C3. The supporting text also makes it evident that there is a tangible difference between the two forms of specialist housing when considering affordable housing provisions. On the evidence before me, therefore, I am satisfied that the proposal, being for a C2 use, does not conflict with Policy LP26 in terms of a requirement to provide affordable housing.

49. Policy LP24 relates to affordable housing generally and refers to 'housing development' without reference to specific forms of specialist housing or the Use Classes Order. I have had regard to the evidence provided by the appellant, including an appeal decision from 2012 and a list of other schemes where the use was found to be C2. That is not in dispute, but the proposal, which would comprise self-contained apartments with separate entrances and all of the amenities required for day-to-day needs, would still be a 'housing development' in the ordinary meaning of the words under LP24, which are not qualified by reference to a specific use class. I acknowledge the comments of the Council's policy team leader to the appellant, but it is the policy itself to which I must have regard and, for the above reasons, I am not persuaded that the proposal is exempt from the requirements of Policy LP24.

50. However, aside from a brief excerpt from the Housing Strategy Officer on the level of extra care provision locally, the Council has not advanced substantive evidence which puts this need into context, such as the overall levels of need, supply and delivery rates. Nor does its evidence set out how any identified need would be expected to be delivered in terms of tenure mix or the practicalities of securing delivery through a legal agreement.

51. The appellant has submitted a unilateral undertaking (UU) to secure an affordable housing contribution in the event that I were to find it to be a requirement of the proposal. However, the UU is offered by two parties – the developer and the landowner – but is unsigned by the latter. The UU is also undated. As such, it is incomplete and of no legal effect. Moreover, the language used in the UU appears to be standard wording relating to the delivery of affordable housing as part of a wider market housing scheme, not a specialist housing scheme. Consequently, I have no certainty that the undertakings given would in fact secure affordable housing in a manner required by the Council or which satisfied Policy LP24.

Therefore, in the absence of a completed legal agreement, the proposal would not secure any affordable housing as part of the development.

52. Overall, while I have found Policy LP24 is relevant, the evidence from the Council is inconclusive as to the need for affordable housing in this case, given the conflicting positions expressed in the pre-application advice and later consultee comments. There is also insufficient detail as to how any affordable housing would be delivered in practice, given the nature of the proposed development as specialist housing. In any event, there is no mechanism before me to secure any affordable housing.

53. Therefore, I find that the evidence before me does not clearly establish a need for a requirement for affordable housing to be delivered pursuant to Policy LP24. The absence of a completed legal agreement to secure affordable housing is not therefore a matter weighing against the proposal in the overall planning balance. As no affordable housing would be provided, it is also not a matter attracting specific positive weight as a material consideration.

Capacity of site to support biodiversity

54. The appeal site is identified as a 'core site' within the Great Ouse Valley Habitat Network, a Priority Natural Landscape for Huntingdonshire. It is stated to include a number of important habitats, including lowland floodplain meadows, floodplain wetland mosaics, reed swamp, wet woodland, open water lakes and river backwaters. The site is also part of the wider Meadow Lane Gravel Pits County Wildlife Site, a non-statutory designation encompassing the lakes and their associated wetland habitat.

55. The appellant has provided a preliminary ecological appraisal (PEA) and biodiversity net gain report (BNGR). The former sets out that no features underpinning the designation of the CWS would be affected. The latter indicates a net loss in on-site habitat units of 37.25%.

56. The Council disputes the findings with respect to the CWS, pointing to the presence of a pollard willow and other habitat types and features that meet the qualifying criteria for the CWS. In particular, the Council points to extensive clearance of vegetation which took place on the site in March 2024 which would have removed additional trees and habitats that would have contributed towards the site meeting the qualifying criteria, including possible ancient or veteran trees. It is also highlighted that the appellant's PEA did not undertake a survey for invertebrates to understand if this criterion was met. The appellant disputes these findings, arguing that a felled line of trees were not identified as ancient or veteran, and that it was unable to undertake invertebrate surveys as habitat clearance took place prior to the survey season.

57. The CWS is not a statutory designation, and I recognise that the appeal site constitutes a small percentage of the designated area. There is evident difference between the parties on the contribution of the site to the CWS, but the robustness of the appellant's position that no qualifying habitats are present on the site is undermined by a failure to undertake invertebrate surveys, and the obvious change in site condition following clearance works in March 2024. The PEA indicates that on-site surveys were undertaken in October 2023 and May 2024, but there is very limited acknowledgement of the very substantial changes in the condition of the site between these surveys, and thus it is unclear what baseline has been established

by the PEA. In these respects, I am not satisfied that the appellant has clearly established the potential impacts on biodiversity, as required by Policy LP30.

58. The appellant refers to proposed mitigation for invertebrates within adjacent land within the blue line, but I have no details as to the nature of this mitigation. Moreover, given there is not a clear understanding of the baseline position, there is no quantification of the loss of invertebrate species and thus the level of mitigation required is unknown, nor whether it could be achieved on the site or adjacent land.

59. The Council's position is that the site has significant potential for regeneration to continue to provide a high quality wildlife habitat, if left to recover. The appellant points to threats to habitats from a lack of sympathetic management or abandonment of sites, which are usually outside of the control of the local planning authority and could result in loss of habitat quality or biodiversity. I am referred to appeals where these matters have been considered, but in the present case I have no evidence that the site, if left alone, would suffer further degradation. Nor do I have any evidence that natural regeneration would not provide opportunities for recovery of habitats, flora and fauna on the site.

60. Policy LP30 adds that a proposal will not be supported if potential impacts would lead to the deterioration of water body ecological status/potential. The Council points to the potential for pesticides and herbicides to be introduced to manage landscaped areas of the site, and the risk of this leaching and running off into the lake. I have no detail as to how such risk would be addressed.

61. Overall, the evidence before me is not conclusive that the site does not contribute to the qualifying habitats of the CWS, or that no harm would be effected to these habitats as a result of the development. The failure of the PEA to undertake surveys means that the level of mitigation required, and whether it can be delivered on site, has not been demonstrated. Development of the site would lead to demonstrable further loss of habitats on site, as evidenced by the BNGR. Consequently, I find that there would be conflict with Policies LP3, LP30 and LP31, which together require development to support green infrastructure and protect biodiversity, trees, woodland, hedges and hedgerows.

Biodiversity Net Gain (BNG)

62. Separate to the matters discussed above, the Council disputes the findings of the appellant's biodiversity metric, in particular the accuracy of the assessed baseline conditions, on the basis that the site clearance works in March 2024 have not been correctly accounted for and it is the preceding condition of the site, prior to those works, which should form the baseline. The appellant asserts that the metric was undertaken on the basis of the October 2023 survey and thus met this requirement.

63. The Council's ecology officer has challenged the baseline in terms of the extent and condition of different habitats, such as woodland, bramble scrub, other neutral grassland and tall forbs, with reference to aerial photography of the site's prior condition. The appellant maintains that the line of trees felled were surveyed in February and October 2023 and found not to have characteristics of veteran trees, though the arboricultural survey before me was undertaken in June 2024, following site clearance in March of that year.

64. Should the appeal succeed, it would be subject to the statutory biodiversity gain condition set out in Schedule 7A of the Town and Country Planning Act 1990 (as

amended). The Planning Practice Guidance (PPG) states that it would generally be inappropriate, when determining a planning application for a development subject to BNG, to be refused on the grounds that the biodiversity gain objective will not be met, though it also states that consideration may be required as to whether the biodiversity gain condition is capable of being successfully discharged.

65. In this case, whilst the main parties are not in agreement on the baseline data, this is a matter that would fall to be agreed through the discharge of the statutory condition, with the pre-development biodiversity value of the on-site habitat being part of the required information, pursuant to paragraph 14(2) of Schedule 7A.

66. The biodiversity gain condition sets out that development cannot begin until the Biodiversity Gain Plan (BGP) has been approved. It would be for the Council to consider the BGP and whether the measures set out therein are acceptable and secured, including the form and extent of off-site mitigation. I see no reason why an appropriate agreement, such as a Section 106 Agreement, could not be entered into at the time the BGP is being submitted for approval and form part of the measures. As such, I am satisfied that the biodiversity gain condition is capable of being discharged and that, overall, the proposed development is capable of meeting the statutory requirements for BNG.

67. Related to this is the Council's request for a BNG monitoring fee to be secured through a planning obligation. The submitted UU is deficient in that the named owner of the land has not signed it, and it is not properly dated. Consequently, it would not secure the BNG monitoring fee. However, given the statutory provisions now in place for BNG, I see no reason why a monitoring fee, if necessary, could not be secured as part of a legal agreement entered into to satisfy the standard condition. The absence of a means to secure this contribution at this stage does not therefore weigh against the proposal.

Protected Species

68. The PEA indicates that the site is an important location for foraging and commuting of bats. The Council's concern is that lighting from the proposed development, both external within the grounds and light spillage from within the buildings, would cause harm to bats using the site. I have noted the clarifying comments from the appellant's ecologist regarding the number of bat species recorded, that these are among the most common species, and that no roosts have been recorded on site. The Council points out that the surveys took place following the site clearance works and represent the site in a lowered ecological state.

69. A lighting scheme has not been submitted, though I note the recommended parameters for one set out within the PEA, including the enhancement of existing commuting corridors and creation of high quality linear features. However, the size and spread of the proposed buildings means they would stand in close proximity to areas of woodland and hedgerows, as well as the lake edge. It is also unclear from the evidence or the plans before me what high quality linear features would be introduced or what form of mitigation they would deliver. Even if external lighting to the car park, communal areas and paths is kept to a minimum, lighting from within the buildings would be capable of affecting retained natural features that may be used for foraging and commuting of bats. The potential level of light spillage is not assessed, but given the scale of the proposed buildings, it is not clear that the

effects of lighting are clearly understood at this stage, such that I could have confidence in imposing a condition to secure details of the lighting scheme.

70. All species of bats are protected by law. Moreover, Circular 06/2005 states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. Paragraph 99 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. In this case, the absence of sufficient information in respect of lighting means that I cannot rule out potentially significant harm to protected species, namely bats.

71. Consequently, there would be conflict with LP30 which, among other things, requires that proposals demonstrate that all potential adverse impacts on biodiversity and geodiversity have been investigated.

Waste Management

72. Policy LP4 of the HLP sets out that contributions towards the provision of infrastructure, and of meeting economic, social and environmental requirements may be necessary to make a proposal acceptable in planning terms. The Developer Contributions Supplementary Planning Document (SPD) (December 2011) explains that household waste management is critical in developing sustainable communities, and new housing within the district will trigger a need for the provision of waste storage containers (wheeled bins). The SPD indicates the cost of the bins will be reviewed annually. The Council states that the current contribution sought is £669 per communal bin, of which some 32 are estimated to be required to serve the development. On the evidence before me, I am satisfied that a financial contribution in this case would be necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development.

73. As already set out, the appellant has provided a UU with the appeal, offering to make the required contribution towards the provision of wheeled refuse bins to serve the development. However, I have already found that the UU is incomplete and not capable of having legal effect.

74. I have considered whether in the absence of a completed legal agreement, the matter could be addressed by means of a planning condition. However, the PPG is clear that no payment of money or other consideration can be positively required when granting planning permission. It adds that negatively worded conditions requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in exceptional circumstances, where there is clear evidence that the delivery of the development would otherwise be at serious risk. However, I have not identified any exceptional circumstances in this case. A condition requiring a planning obligation to be entered into would not therefore meet the tests set out in the Framework.

75. Therefore, the proposal would not secure the necessary contribution to offset the costs of wheeled bin provision. In the absence of a completed UU, the proposal would not make adequate provision for waste management, contrary to the requirements of Policy LP4 and the SPD.

Other Matters

76. I have had regard to other matters considered by the Council and upon which comments have been received from interested parties, including a considerable number concerning flooding and drainage of surface water to the lake. I have had regard to the evidence, including the appellant's flood risk assessment and drainage strategy and comments from the Environment Agency and Lead Local Flood Authority. The Council has determined that the proposed surface water drainage strategy is acceptable, having received a suitable maintenance plan for the sustainable drainage system.

77. I note the caveat that any drainage into the lake would require the lake owner's consent, which is a matter for the appellant to pursue separately. However, subject to this being agreed and the proposed measures implemented, I am satisfied that there would not be demonstrable harm in terms of increased flood risk or pollution to the lake or groundwater.

78. Having regard to the other evidence before me, I have not identified other matters attracting material weight for or against the proposal in the planning balance. As such, it is not necessary to address these in further detail, as they would not have a bearing on the outcome of the appeal.

Planning Balance and Conclusion

79. As the Council is unable to demonstrate a five-year supply of deliverable housing sites, Paragraph 11(d) of the Framework is engaged and the policies most important for determining the proposal are deemed to be out-of-date. Policies LP2 and LP10, insofar as they limit the extent and type of development permitted in the countryside, including housing, attract less weight in decision-making terms, but I regard other policies, including those relating to character and appearance, design quality, accessibility, biodiversity, sport and recreation, living standards and provision of infrastructure, to still be consistent with the approach of the Framework and to merit significant weight.

80. The proposal would deliver 84 supported housing units at a time when the Council is falling short of delivering the required number of homes overall, and with a stated need for extra care housing. Having regard to the Framework aim of significantly boosting the supply of homes, and meeting the housing needs of different groups, this merits very significant positive weight in support of the appeal scheme.

81. The development would generate benefits for the local construction industry during the build, including employment, albeit this would be short-lived. Thereafter, the residents of the scheme would deliver economic benefits through use of the facilities and support of local businesses and services. There would also be benefits arising from the delivery of biodiversity net gain, albeit this may include off-site gains. Collectively, I afford these benefits moderate weight.

82. Set against the above, I have found that the proposal would cause landscape harm that, although localised in scale, would adversely affect the function and perception of the LCA within which the site lies. This conflicts with the Framework's recognition of the intrinsic character and beauty of the countryside.

83. In addition, I have found harm in respect of the accessibility of the site for residents and their standard of accommodation; the effect on recreational users of the lake;

the effect on the site's capacity to support biodiversity and protected species. These conflict with the Framework aims of achieving well-designed places; providing access to a network of high quality open spaces and opportunities for sport and physical activity; and conserving and enhancing the natural environment.

84. Overall, I find that the identified harms, taken together, represent adverse effects of such weight that they would significantly and demonstrably outweigh the identified benefits when assessed against the policies in the Framework, taken as a whole. Consequently, as a material consideration, the proposal does not benefit from the presumption in favour of sustainable development, and the Framework does not indicate that permission should be granted.

85. In the final balance, I conclude that material considerations in this case, taken cumulatively, are not sufficient to outweigh the identified conflicts with the development plan. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR