



Statement of Case

Outline planning application for the construction of up to 65 dwellings together with associated works and access –
Land at Lower Road, Milton Malsor, Northamptonshire

for Hollins Strategic Land LLP

LPA ref: S/2020/0599/MAO

Project : 18-518
Site address : Land at Lower Road,
Milton Malsor, South
Northamptonshire
Client : Hollins Strategic Land LLP
Date : February 2021
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1. Introduction

- 1.1 Emery Planning, on behalf of Hollins Strategic Land LLP (The Appellant), submits this Statement of Case in support of their appeal against the decision of South Northamptonshire Council (the LPA) to refuse outline planning permission for the erection of up to 65 no. dwellings with associated works and access on land at Lower Lane, Milton Malsor, Northamptonshire.
- 1.2 The application was refused on 29th October 2020 and this appeal has been submitted to be heard by way of a public inquiry.
- 1.3 The Appellant's case will be based on the following Propositions:
- Proposition 1 – In accordance with the Framework and the development plan the site is required to meet housing need.
 - Proposition 2 – The Principle of Development is acceptable.
 - Proposition 3 - The appeal site is an appropriate location to meet the housing need.
 - Proposition 4 – The Planning Balance is firmly in favour of the grant of planning permission.

2. The Appeal Proposal

2.1 The proposed development is for:

“Outline planning application for the erection of up to 65 no. dwellings with associated works and access.”

2.2 The application was submitted in outline form with all matters other than means of access reserved for consideration at a later date.

2.3 The key aspects of the proposed development can be summarised as follows:

- Up to 65 dwellings, at a mix of types and sizes;
- Affordable dwellings (50%);
- Vehicular and pedestrian access to the site off Lower Road;
- off-site highway improvements in and around Milton Malsor;
- Associated landscaping, including an area of public open space;
- The retention of existing trees and hedgerows as far as possible and provision of new landscaping including new tree planting; and,
- Ecological mitigation and enhancement.

2.4 The application was accompanied by the documentation listed in the appeal submission.

2.5 The application was considered by committee on the 29th October 2020. Members voted in accordance with the officer recommendation and the application was refused and the Decision Notice issued on the 29th October 2020. There are 3 reasons for refusal on the decision notice. Therefore, the Appellant's case will address each.

3. Site and area description

- 3.1 The site measures 5.1 hectares and comprises a rectangular parcel of grazing land to the immediate north-east of the village of Milton Malsor. Access to the site is off Lower Road, with the western boundary of the site directly adjoining the highway. Hedgerow encloses the site, and there are also a small number of trees around the site perimeter.
- 3.2 The site is well contained and bounded by defined features on three sides: residential development within the village to the west and south, and the west coast railway line to the east.
- 3.3 To the north of the site are agricultural fields, beyond which is the Milton Park Motocross track. This area to the north of the site is also well contained, clearly bound by Towcester Road to the west, the M1 to the north, and the railway line to the east.
- 3.4 A site location plan accompanied the application, showing the application site within the local context. The site would make for a logical extension to the village.
- 3.5 Milton Malsor is sustainable in its own right, with facilities including a public house, a football club, two churches, village hall, village park and playing fields and a primary school situated within easy walking distance of the site. Lower Road also has bus stops providing regular services to Northampton, including a Tesco Extra within 11-minutes on bus.
- 3.6 Milton Malsor is well related to infrastructure, amenities and facilities associated with Northampton. These include schools, a General Hospital, national rail links and retail/employment areas. The site is extremely well connected by road and is near to the A43 and junction 15A of the M1.

4. Planning Policy Context

4.1 Reference will be made to the policies of the adopted development plan. For the purposes of this appeal, the development plan comprises:

- West Northamptonshire Joint Core Strategy Local Plan (Part 1) (adopted December 2014) (WNJCS)
 - SA – Presumption in Favour of Sustainable Development
 - S1 – Distribution of Development
 - S10 – Sustainable Development Principles
 - S11 – Low Carbon and Renewable Energy
 - C1 – Changing Behaviour and Achieving Modal Shift
 - C2 – New Developments
 - H1 – Housing Density and Mix and Type of Dwellings
 - H2 – Affordable Housing
 - H4 – Sustainable Housing
 - BN2 – Biodiversity
 - BN5 – The Historic Environment and Landscape
 - BN7 – Flood Risk
 - INF1 – Approach to Infrastructure Delivery
 - INF2 – Contributions to Infrastructure Requirements
 - R1 – Spatial Strategy for the Rural Areas:
- South Northamptonshire Part 2 Local Plan (SNLP)
 - SS1 – The settlement hierarchy
 - SS2 – General development and design principles
 - LH1 – Development within town and village confines
 - LH8 – Affordable housing
 - LH10 – Housing mix and type

- SDP2 – Health facilities and wellbeing
- INF1 – Infrastructure delivery and funding
- INF 3 – Education Facilities
- INF4 – Electric vehicle charging points
- GS1 – Open space, sport and recreation
- HE2 – Scheduled ancient monuments and archaeology
- NE5 – Biodiversity and geodiversity
- NE6 – SSSIs and Protected Species

4.2 The WNJCS was adopted in conjunction with Northampton Borough Council and Daventry District Council. The Appellant will assess the performance of and weight attaching to relevant policies, in particular, in terms of meeting housing need. In summary the Appellant's position is that the WNJCS has failed to deliver the housing requirement.

Other Material Considerations

4.3 In addition to the National Planning Policy Framework (the Framework) and National Planning Practice Guidance (the Guidance) the following will also be referred to:

- Housing Land supply report 2020;
- West Northants Strategic Housing Market Assessment (SHMA) 2010;
- South Northamptonshire Design Guide;
- Milton Malsor Parish Plan 2005 and 2011 Parish Housing Needs Survey;
- Housing Strategy 2019-2022 (with appendices); and
- West Northamptonshire Joint Authorities Monitoring Report 2018-19.

5. Proposition 1

In accordance with the Framework and the development plan the site is required to meet housing need.

- 5.1 The Appellant's case is that the housing land supply should be measured against the housing requirement set out in the adopted policy S3 in accordance with paragraph 73 and footnote 37 of the Framework. The Appellant will also present the supply against the local housing need because this is the only other figure that could be used now that the WNJCS is over five years old.
- 5.2 The Appellant presented evidence in relation to South Northamptonshire Council's five year housing land supply at a public inquiry into an appeal made by Hollins Strategic Land and others against the decision of the Council to refuse to grant outline planning permission for up to 66 no. dwellings at land south of Kislingbury Road, Rothersthorpe. The inquiry took place in late April / early May 2019. The decision was issued on 17th May 2019¹. At the inquiry, the Council claimed it could demonstrate a supply at 1st April 2018 of just over 11 years. Whilst the appeal was dismissed on site specific matters, Inspector Major concluded that the Council could not demonstrate a five year housing land supply.
- 5.3 The Inspector rejected the Council's claims that its housing land supply should be measured against its objectively assessed housing need. In accordance with paragraph 73 of the Framework, the Inspector concluded that the five year supply should be measured against the housing requirement set out in the adopted strategic policies (paragraph 13). The Inspector found on either case (about 2.5 years on the Appellant's calculation and about 3.8 years on the Council's assessment) that there is a "clear and significant shortfall" in the five year housing land supply at 1st April 2018 (paragraph 20).
- 5.4 The Council now claims that it has a supply of 8.26 years. The reason why the Council claims its supply has significantly increased since the Rothersthorpe appeal decision was issued is because it has rejected the conclusions Inspector Major made in terms of the figure the housing land supply should be measured against.
- 5.5 Despite losing the point at the Rothersthorpe Inquiry, the Council maintains that its housing land supply should be measured against the Objectively Assessed Housing Needs (OAN) of 351

¹ PINS ref: 3206346

dwelling per annum minus a proportion of the over-supply against the OAN from the first 9 years of the plan period. There is no support for this approach in National Planning Policy or Guidance.

- 5.6 The Appellant will set out in evidence that paragraph 73 and footnote 37 of the Framework and paragraphs 68-002², 68-003³ and 68-005⁴ of the PPG explain that the housing land supply should be measured against the housing requirement set out in adopted strategic policies or against the local housing need using the standard method set out in the PPG when those strategic policies are more than five years old and have not been reviewed. Against either the housing requirement set out in the strategic policies or the local housing need, the Council cannot demonstrate a deliverable five year housing land supply even on its own supply figure.
- 5.7 The West Northamptonshire Joint Core Strategy (WNJCS) is more than five years old. This means that the Council's five year housing land supply must now be measured against the local housing need unless the strategic policies have been reviewed and found not to require updating. Paragraph 33 of the Framework and paragraph 61-062 of the PPG⁵ explain that an adopted housing requirement would need updating if it were lower than the local housing need using the standard method. In this case, the adopted housing requirement of an average of 612 dwellings per annum is not lower than the local housing need of 503 dwellings per annum and therefore can continue to be used. However, the OAN of 351 dwellings per annum (which is not a housing requirement) should not be used because it is significantly lower than the local housing need. Indeed, the figure the Council claims is its OAN for the next five years is significantly lower than the latest 2018-based household projections, which project 465 new dwellings are required per annum.
- 5.8 On the basis that the Council claims that policy S3 has been reviewed and found not to require updating, the Appellant concludes that the housing land supply should be measured against the housing requirement set out in the adopted policy S3 in accordance with paragraph 73 and footnote 37 of the Framework. The Appellant will also present the supply against the local housing need because this is the only other figure that could be used now that the WNJCS is over five

² Paragraph: 002 Reference ID: 68-002-20190722: "What is a 5 year land supply?"

³ Paragraph: 003 Reference ID: 68-003-20190722: "What is the purpose of the 5 year housing land supply?"

⁴ Paragraph: 005 Reference ID: 68-005-20190722: "What housing requirement figure should authorities use when calculating their 5 year housing land supply?"

⁵ Paragraph: 062 Reference ID: 61-062-20190315: "How often should a plan or policies be reviewed?"

years old. The adopted housing requirement is “stepped”, which means that 3,801 dwellings should be delivered over the five year period.

- 5.9 Whilst the Council claims that its five year housing requirement should be reduced by the over-supply achieved since the start of the plan period, it argued this through detailed cross-examination and lost this point at the Rothersthorpe appeal. There is no support for the Council's approach in national Policy or Guidance. Indeed, to reduce the five year requirement would be contrary to the Government's aim of significantly boosting housing land supply and incomprehensible against the context of local housing delivery and affordability issues in the area. Furthermore, there is no support in this case for reducing the housing requirement by applying the over-supply when the latest household projections explain that the annual housing need is higher than the claimed OAN of 351 dwellings per year.
- 5.10 It is agreed that in addition to the requirement, a 5% buffer should also be demonstrated in accordance with paragraph 73 of the Framework.
- 5.11 In conclusion, against the housing requirement set out in adopted strategic policy S3, we conclude that the Council cannot demonstrate a 5 year housing land supply and paragraph 11(d) is engaged.

Housing Need in Milton Malsor

- 5.12 The consultation response from the Strategic Housing Team is dated 24th April 2020. They state:

“We would be able to offer support for the scheme in principle if the applicant is willing to enter into a S106 agreement to secure the promised affordable housing delivery and agrees to a policy compliant split between rented and intermediate homes.”

- 5.13 Some of the key points from their response are as follows:

- A recent update to the SHMA demonstrates a district wide requirement of 3300 affordable dwellings by 2029. The SHMA and local housing needs indicate that a minimum of 183 new affordable homes are required per annum.
- A parish level housing needs survey for Milton Malsor was completed in 2011. This identified a need for 14 social rent units and 1 shared ownership unit. Since the survey was undertaken there has been no affordable housing delivery in Milton Malsor. However, whilst the identified need was not met, the survey results are nine years old and are therefore too old to be relied upon.

- Of the 208 households on the register as of 24 April 2020, 34 have indicated that they would be willing to be housed in Milton Malsor and their needs range from one bedroom to four+ bedroom properties. Therefore 16.3% of those in priority need overall chose Milton Malsor as their preferred choice to live.
- This suggests that there is sufficient demand for affordable housing in Milton Malsor to support a development of the scale proposed. This comment should though be caveated that, if planning permission is granted, delivery of new homes is likely to be well over a year away by which time demand may have changed.

5.14 The Strategic Housing Team response is the most up to date position on housing need in the village and it is clear that Milton Malsor has an affordable need as well as meeting the wider District need. As they confirm there has not been one affordable home delivered in Milton Malsor since the survey in 2011 and there are no sites allocated in Milton Malsor in a development plan to meet this need.

5.15 This proposal of 65 houses, of which 50% are affordable would meet that requirement. In this case the Inspector can be confident on delivery and therefore meeting this need as the appellant's track record demonstrates this and in this case a reserved matters application would be submitted within 12 months, development commenced by 2022/23 and complete by 2023/24. The 50% affordable sold to a registered provider to ensure early delivery with the remaining market dwellings sold within a year.

5.16 In the context of no affordable homes being provided in Milton Malsor since the 2011 Housing Study, the "increasing shortfall" (SHMA 2010) and 183 affordable homes needed per annum across the District, then the Appellant will demonstrate a local and district housing need exists and that this is an important material consideration which attracts substantial weight in favour of the proposal.

6. Proposition 2

The Principle of Development is acceptable.

6.1 The Decision Notice sets out a number of policies, which are:

- Policy R1 (b), (e) and g) of the adopted West Northamptonshire Joint Core Strategy; and,
- Policies SS1 and LH1 of the adopted South Northamptonshire Local Plan Part 2.

6.2 Reference is also made to paragraphs 12 and 47 and 170 of the Framework.

6.3 The appeal site directly adjoins the settlement boundary of Milton Malsor, named as a Secondary Service Village (B) in Policy SS1 of the adopted South Northamptonshire Local Plan (Part 2). As a Secondary Service Village (B) the development plan states that in such locations there is scope to meet local needs for housing, subject to other policies of the plan, namely policies LH2 (Starter homes), LH3 (Entry level and single plot) and LH5 (self and custom build). It is acknowledged that as the proposal is situated outside of the settlement boundary, in the open countryside, it would not comply with these exceptions. That however is only the starting point and development can come forward even with conflict with the development plan if other material considerations are supportive. Reference will be made to other applications which have either been recommended for approval or approved for development outside the settlement boundaries in the context of the Council considering they had a 5 year supply.

6.4 Our evidence is that a 5 year supply cannot be demonstrated when applying either the JCS requirement across South Northamptonshire including the part of the NRDA that falls within the District (as accepted in the Rothersthorpe appeal); or applying Local Housing Need across South Northamptonshire including the part of the NRDA that falls within the District. Therefore the policies which are most important for determining the appeal are out-of-date.

6.5 However in the event that the tilted balance is not engaged contrary to our primary case, decisions that depart from an up-to-date development plan can be approved if the benefits outweigh the harm (the flat balance). In this instance, the Appellant will demonstrate in evidence that there are sufficient material planning benefits to outweigh any harm and planning permission be granted.

7. Proposition 3

The appeal site is an appropriate location to meet the housing need.

7.1 Reason for Refusal 2 states:

2. A development of the scale proposed would comprise a substantial new development that would erode the rural setting of Milton Malsor and adversely change the character of the village. The development would therefore conflict with Policy R1(b) of the 2014 West Northamptonshire Joint Core Strategy, Policy SS2 of the South Northamptonshire Local Plan (Part 2), and paragraph 170 of the NPPF.

7.2 The LVIA which was submitted with the application is the only professional assessment of impact, in accordance with guidelines. The LVIA informed the illustrative layout. However, the email from the LPA dated 8th January 2020 states:

"Notwithstanding the submitted LVIA, my interpretation of the site is that it very much forms the rural setting to Milton Malsor and that development would effectively represent a 'bolt on' to the settlement, albeit without much natural integration/connectivity. Layout is reserved and whilst in literal terms 65 dwellings appear to be achievable without being overly dense, I am not keen on how this quantum would require what is essentially one long and linear cul-de-sac extruding beyond the existing building line towards the railway. I feel that in landscape character terms a development focussing on the south-western portion of the site would have been more appropriate, which would necessitate far fewer dwellings and is still likely to have some harm. I assume a significantly smaller development is not something your client wishes to consider but if so then I will potentially seek the views of our retained landscape consultant on the matter. I have personally only viewed the site from Lower Road so if it would be possible to do a more comprehensive walkover in the coming weeks (which we can now do either unaccompanied or accompanied) that would be helpful in reaching a final position on this matter."

7.3 Whilst the Appellant remains content that the original layout was appropriate, they have nevertheless taken account of the LPA comments and a Parameter Plan was prepared, submitted and was determined. The plan shows that of the 5.1 hectare site, the net developable area is 2.5 hectares. The other key points are:

- The Parameter Plan removes proposed development from the south-eastern part of the site further away from the railway line, and instead extends the development northwards across the site and further along Lower Road;
- The layout provides a circular link and reduces the length of cul-de-sac. It should be noted that the direction of travel of the prospective residents remains westwards

towards services/facilities. One vehicular access into Chestnut Close opposite is an example of a cul-de-sac 165m long.

- The Parameter Plan shows a consolidated form of development, with the build line behind existing build line so it does not protrude beyond the existing line of development;
- At an average of 26 dwellings per hectare, the density is low to medium and in character with Milton Malsor.

7.4 As with the development of any greenfield site there will be an element of harm by the introduction of built development and the few moderate effects would be reduced as the mitigation planting matures, and there would be long term benefits to trees and hedges as a result of:

- the planting of new woodland, along the eastern boundary, which would create a wooded skyline;
- hedge planting within the open spaces to subdivide them into fields and greatly increase the length of new hedges;
- new tree planting along the existing and proposed hedges, which would help compensate for the decline of hedgerow trees in the wider landscape, as well as enhance the landscape of the currently barren, bleak site;
- new planting at the entrance to the site from Lower Road, providing a new gateway to the village and reflecting open space in the core of the settlement; and
- provision of new wildflower meadows across the open spaces, managed to enhance biodiversity.

7.5 Therefore the Appellant will demonstrate that that from a landscape and visual impact perspective the site is entirely appropriate.

Other Site Specific Matters

7.6 All site-specific aspects of the proposed development including matters relating to design, residential amenity, accessibility, drainage, ecology, arboriculture and highways access have all been addressed through the published Committee report for the appeal proposal and found to be acceptable.

7.7 The Appellant will demonstrate that:

- The site is accessible on foot and a range of day to day' amenities within a short walk of the site;

- The services from the bus stops on Lower Road, travelling to Northampton, Towcester and Silverstone, demonstrates that the proposed development can be accessed by sustainable modes of transport; and,
- The site is accessible via rail with Northampton train station located just a short bus journey, and a short walk, from the site.

7.8 The Appellant will also set out the wider benefits from the development which include bus stop upgrade and off-site highway improvements to the junction of Lower Road and Towcester Road and reducing traffic speeds on the approach into the village along Lower Road in accordance with the aspirations in the adopted Parish Plan. The Appellant will demonstrate that there are currently no other deliverable ways to secure the public benefits in Milton Malsor and that the addition of new residents and improvements will also help avoid unbalanced aging communities and declining sustainability.

7.9 The Appellant will conclude that there are no environmental or technical considerations that would prevent planning permission being granted.

Section 106 Agreement

7.10 Reason for refusal 3 states:

3. Policies INF1 and INF2 of the West Northamptonshire Joint Core Strategy 2014 are concerned with infrastructure and developer contributions, and state that 'developers will be expected, in negotiation with the Local Planning Authority to make provision for related infrastructure and community facilities the need for which arises from the development'. This is consistent with the National Planning Policy Framework. In the absence of a signed legal undertaking the Council cannot be satisfied that the development proposal would make sufficient provision to mitigate the impacts of the development on existing community services and infrastructure serving the development including early years and primary education infrastructure; affordable housing; public open space and facilities (including maintenance); public transport and off site highway improvements; refuse/recycling infrastructure; libraries and primary healthcare infrastructure. The application is therefore contrary to Policies H2, INF1 and INF2 of the West Northamptonshire Joint Core Strategy 2014, Policies LH8, INF1 and GS1 of the South Northamptonshire Local Plan (Part 2) and the adopted Supplementary Planning Document 'Developer Contributions' (December 2010).

7.11 The Appellant will liaise with the Council to agree a Section 106 bilateral agreement or a Unilateral Undertaking. In preparing the legal agreement the Appellant will consider each of the requests under Paragraph: 002 Reference ID: 23b-002-20190901 of the PPG.

8. Proposition 4

The Planning Balance is firmly in favour of the grant of planning permission.

8.1 The appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is an important material consideration.

8.2 The following factors should be afforded substantial weight in the positive determination of the appeal:

- The development will provide 50% affordable housing (circa 32 homes), where there is currently a shortfall locally and widely and will therefore make positive steps towards meeting an identified local affordable housing need.

8.3 The following factors should be afforded significant weight in the positive determination of the appeal:

- The delivery of open market housing that will aid the Government's objective to significantly boost the supply of homes on a site that is appropriate in scale relative to settlement's status in the settlement hierarchy. A development with a mix of type and size, including bungalows (5% of total), 1 bed flats, 2, 3 and 4 bed houses. This responds specifically to the demand/need for first time buyers and renters and those looking to downsize in older age.
- Bus stop upgrade and off-site highway improvements to the junction of Lower Road and Towcester Road and reducing traffic speeds on the approach into the village along Lower Road in accordance with the aspirations in the adopted Parish Plan.
- The site itself is well contained and well related to Milton Malsor, adjoining the settlement boundary of a Secondary Service Village as categorised in the settlement hierarchy of the adopted Part 2 Local Plan and closely located to Northampton. As a third tier settlement with its own services and facilities, the village is a sustainable location for an appropriate scale of residential development, but the proximity to and connectivity with Northampton also increases the site's sustainability credentials.
- The proposal site is well served by regular bus services (no.88) to Northampton providing options for both commuter and leisure trips. Northampton town centre and railway station can be reached within a circa 25 min cycle ride and a circa 15-minute bus journey. There is also good pedestrian and cycle access.
- The site is located outside of the Conservation Area that lies to the south and, due to there being limited intervisibility, there is not considered to be any potential for adverse impacts to the setting of these heritage assets as a result of development.

8.4 The following factors should be afforded moderate weight in the positive determination of the application:

- The creation of 2.6 hectares of publicly accessible area of open space and footpath for recreational use;
- Biodiversity net gains can be delivered including substantial new tree planting to create a 'green gateway' to the village in accordance with the aspirations in the adopted Parish Plan; and,
- A range of social and economic benefits including construction jobs and increase spending for local services and facilities.

8.5 The only elements of harm that would result from the proposal are:

- There will be a limited adverse impact on the rural character and wider landscape. This is an inevitable impact for any development on a greenfield site. The submitted updated LVIA demonstrates that the application site represents a logical residential opportunity to soften the urban edge of the village and the proposal would sit comfortably within the character and appearance of the existing built form by ensuring a green ridge and skyline are retained. There are also beneficial impacts from the landscaping scheme in the longer term and the creation of a 'green gateway' which is an aspiration of the Parish community.

8.6 Our primary case remains that the LPA cannot demonstrate a 5 year housing land supply and paragraph 11(d) of the Framework applies. However on a traditional (flat) planning balance weighing up all the above material planning considerations alongside the adverse weight that should be applied to the acknowledged conflict with the development plan, it is considered that in this case there are significant positive material planning considerations that would outweigh the harm.

8.7 Our evidence will conclude that the appeal should be allowed.

8.8 The Appellant reserves the right to add to or introduce further elements to their case, when the Council's Statement of Case and comments from third parties are received, or should material considerations change due to, for example, changes in national policy, updates to the housing land supply position, decisions on other sites and/or changes to the emerging development plan and its evidence base. In the event of any changes these will be raised with the Council at the earliest opportunity through discussions on the Statement of Common Ground.