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## Appeal Decision

Inquiry held on 20-23 January 2026

Site visit made on 20 January 2026

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> March 2026

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**Appeal Ref: APP/E3715/W/25/3373251**

**Land North of Rounds Gardens, Rugby, CV21 2BS**

- 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 St. Modwen Homes against the decision of Rugby Borough Council.
  - The application Ref is R24/0111.
  - The development proposed is redevelopment of the former football pitch and tennis courts associated with the adjacent employment use, including demolition of the existing pavilion and all other remaining structures and enclosures relating to the previous use of the site; and the erection of 115 dwellings, accesses, landscaping, parking, drainage features and associated works
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the description of development from the Council's decision notice as it best reflects the scheme that was ultimately subject to the Council's decision.
3. In December 2025 the Government began consultations on proposed amendments to the National Planning Policy Framework (the Framework) and also in relation to the consolidation of its guidance relating to the issue of design. The proposed revisions could be subject to substantial changes following the consultation period so therefore carry little weight in the determination of this appeal.
4. Amended plans submitted with the appeal seek to alter the detail of the proposed one-way system through Princes Street and the connecting streets. Mindful of the principles set out by caselaw<sup>1</sup>, given that the arrangement of the one-way system would not substantively change, the amendments are not significant, and I accepted the plans without procedural prejudice to any party. The same holds true for the amended plans that have been submitted seeking to make modest changes to the species of certain trees within the proposed layout.
5. A completed unilateral undertaking (UU) accompanies the appeal. Amongst other things it seeks to secure contributions to works to a footpath between York Street and Dale Street, towards the provision of the Traffic Regulation Order that would be necessary to facilitate the scheme, and to a feasibility study regarding potential upgrade works to the Rugby Gyrotory. Based on the amended plans and the UU, the Council confirmed well before the Inquiry opened that it would not be pursuing the highway related third and fourth reasons for refusal on its decision notice.

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<sup>1</sup> Holborn Studios Ltd vs the Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

6. The UU also sets out obligations in relation to early and late-stage viability review mechanisms related to Affordable Housing, and the provision of Biodiversity Net Gain (BNG). I turn to the UU and the obligations it contains later in this decision.
7. In September 2025, after the refusal of the planning application, the Planning Practice Guidance was revised in relation to flood risk and under what circumstances the sequential test should be applied. Following this revision to the policy/guidance, the Council has withdrawn its reason for refusal relating to flood risk.

### **Main Issues**

8. The remaining main issues are therefore:
  - the effect of the proposal on the character and appearance of the area, with particular reference to (i) urban design; and (ii) protected trees;
  - whether the proposal would lead to the unacceptable loss of sports and recreational buildings and land; and
  - other considerations, including housing land supply.

### **Reasons**

#### *Character and appearance*

9. The appeal site comprises a large swathe of deteriorated land, most of which was formerly used for sports and recreation in association with a factory complex directly to the north. It has been vacant and unused for a period of some 23 years.
10. A disused football pitch is at its centre, aside a boarded-up pavilion at the site's northeast corner. One can make out the surface of three disused tennis courts to the south of the pitch, aside a fence boundary the appeal site shares with the aforementioned footpath. Where the footpath meets York Street there is a small public play space. Rugby town centre, with its extensive offer of services and facilities, is a short, walkable distance to the southeast.
11. The disused pitch is set within a depression and now framed by a prominent crescent of Lime trees (Lime Group A). They are protected by a Tree Preservation Order, as is another row of Limes on the east side of the site (Lime Group B) a belt of London Planes at its west side, and a group of Limes and Birch to the site's north edge. There are also numerous trees of mixed but lesser value across the appeal site, which have largely self-seeded over the period of the site's disuse.
12. Vehicular access to and from the appeal site is off Willans Place to the west and from the Victorian era terraced Princes Street to the east. Essex Street is another terraced street to the immediate northeast of Princes Street. Just south of Willans Place, along Edward Street, is the Indian Community Centre and its car park. Several tower blocks have recently been demolished along Rounds Gardens, a now largely vacant expanse of land directly to the south of the appeal site.

#### *Urban design*

13. Policy SDC1 of the Local Plan 2011-2031 (adopted 2019) (the Local Plan) states that all development will demonstrate high quality design and will only be supported where it is of a scale, density and design that responds to the character of the areas in which it is situated. Developments should aim to add to the overall quality of the

- area. Factors including the massing, height, landscape, layout, materials and access should be a key consideration.
14. Amongst other things, C1 of the National Design Guide informs us that well-designed new development responds positively to the features of the site and the surrounding context. It goes on to say that well-designed new development is integrated into its wider surroundings. It is carefully sited and designed and is demonstrably based on an understanding of the existing situation.
  15. B2 of the National Design Guide itself states that well-designed places use the right mix of building types, forms and scale of buildings and public spaces for the context and the proposed density, to create a coherent form of development that people enjoy. Well-designed developments also adopt strategies for parking and amenity that support the overall quality of the place.
  16. Looking at the design concept in broad terms first, the surrounding residential areas are high density and dominated by terracing, but at the Inquiry I heard how Rugby has tended to develop in a series of large-scale set pieces, rather than piecemeal. This has created distinct character areas and therefore offers the designer a degree of freedom in creating an individual sense of place for the development.
  17. The design concept takes that opportunity but equally would make clear and adequate references to the existing urban context, with a sufficient sense of general uniformity in the order and scale of the dwellings, reflecting those nearby. The predominant two to two and a half storey scale of the houses, and the repetitive use of certain architectural detailing across the fenestration, such as the chalk render window framing, would be successful in providing overall cohesion across the built form and offering a nod to the homogeneity of the housing in the locality.
  18. The higher density of the houses at the edges of the site would also achieve that aim. The gentler density of the housing at the core of the site would respond to what is an inherently less built-up area, orientated towards the large oasis of public open space at the centre of the development. The streets would be fairly straight and regimented, another reference to surrounding areas, but without being slavishly so. For these reasons, I find the overall design concept to be sound.
  19. However, the relative massing of the dwellings, and how successfully they would sit together, falls short in relation to the house on Plot 98. This building would be much smaller in stature, particularly in its width and height, to its two neighbours. The disparity would be so great that the relationship between the dwellings would be jarringly incoherent. An incongruous and unattractive section of street scene, visible from much of the public open space at the centre of the site, would be the result.
  20. The scheme would bring benefits to the existing fabric of the town. The north end of Princes Street suffers from areas of 'lost space' amongst the terracing, and the presence of the appeal site, bound by industrial fencing. The scheme would fill the gaps in the street scene with dwellings which would read as new but respectful interventions that would sit comfortably with their neighbours. The Council's concerns about the lack of conformity in the layout of the parking serving these units highlights the problems that can arise when modern housing, with modern requirements, is unrealistically sought to conform to historic street typologies.
  21. The dwelling within plot 71 would provide a positive bookend to Princes Street. Aside plot 71 a new path would link to Essex Street. Whilst there would be a sharp

turn in the footpath, on my visit I found this area to be far more open than it appeared on plan, and more supervised by the housing on the north side of Essex Street. With the supervision that would be offered by the new dwellings, and with suitable finishes, the path would be a sufficiently welcoming and safe environment. The outlook along Essex Street would be modestly improved. The benefits to the more compact area at Willans Place would be similarly modest, given that the disused quality of the appeal site appears less pronounced in that location.

22. The improvements to the footpath between York Street and Dale Street would be significant, through the widening of the path and the provision of more appropriate means of enclosure. The increased supervision of the path and play area would also be significant. I do not share the concerns about the proximity of the nearest proposed dwellings to the path, as their side windows would provide a good angle to observe its length and increase its sense of safety. Housing set right up to the edge of footways is a feature of the surrounding area in any event.
23. As for the hierarchy of movement within the layout, the site would be divided by the public open space, which would be beneficial by preventing through traffic and emphasising the 'place' function. Bearing in mind the accessibility of the site to the various services and facilities in Rugby, and with the varied parking strategy which includes dispersing parking to the rear areas in dedicated courts, the site layout is inherently prioritising of cycle and pedestrian movement along the principal streets.
24. In spite of these factors, the quality of the layout design, as envisaged in the Design and Access Statement, fails on its treatment of several of the more peripheral dwellings that would be on and/or have principal outlooks over identified secondary routes. The backland style housing, and the tension between this housing and the use of parking courts behind frontages, creates issues across areas of the layout.
25. Plots 8-13 would be within and/or orientated around a spartan, insular expanse of hardstanding dominated by parking, with little meaningful soft landscaping to elevate the street as a desirable place which would lend itself to interaction or child's play. The dominance of parking and the sense of social exclusion is also a theme for plots 55, 56, 64, 82 and 109. Plot 64 would occupy an especially segregated and little surveilled position with a front outlook mainly over a parking court. These are poorly designed elements of the layout that fail to create a coherent sense of place.
26. That dwellings such as that within plot 64 would provide supervision of these backland and parking dominated areas is not a sufficient justification for their sitings. Indeed, employing plot 64 for that purpose rather underlines that it would be poorly integrated with the other housing and in an area that would not be an enjoyable place to live. Further, the suggestion that prospective purchasers may prefer the isolation of plot 64 as it would be 'quiet' is not compelling as it is too subjective within the context of the principles of good design set out by local and national policy. It follows that the scheme is not high quality or well-designed.

#### *Protected trees*

27. In relation to trees, Policies SDC2 and NE2 of the Local Plan respectively require proposals to ensure that important site features have been identified for retention through a detailed site survey, and that green infrastructure is protected and enhanced. The Council agreed in cross examination that the wording of these policies does not provide an absolute requirement that all important site features and green infrastructure should be incorporated into a scheme, and I agree.

28. The Category A London Planes would be felled. They are fine specimens but actually quite limited in visibility from the public realm; the most notable views are from the entrance and across the car park of the Indian Community Centre.
29. Visibility of the Limes and Birch group is also restricted to views down Essex Street. By comparison, Lime Group B, which would be retained within the layout, is highly prominent from across Rounds Gardens. Lime Group A is not so easy to pick out in wider views, but would be incorporated into the public open space, effectively bringing these important trees keenly into the public perception.
30. The proposal, in opening the site up to public access, in incorporating Lime Group A so successfully within the public open space, in providing a significant 2:1 ratio net gain in tree planting, and in securing the management of retained trees, would markedly increase the sylvan value of the site to the public. This is even accounting for the loss of the London Planes, a single Lime (T11) within the smaller protected group of Limes and Birch. and the loss of the other, less distinctive trees onsite.
31. The effect on protected trees would therefore be acceptable. The proposal would accord with Policies SDC2, NE2 and NE3 of the Local Plan with respect to the need for the enhancement and protection of landscape features, landscape character, and the green infrastructure network. It would accord with the Framework with respect to its requirement for trees to be retained within layouts where possible.

#### *Conclusion on main issue*

32. Drawing this issue together, the effect on protected trees would be acceptable, but the scheme would have an unacceptable effect on the character and appearance of the area with reference to urban design. In this respect it would conflict with Policy SDC1 of the Local Plan insofar as it requires high quality design, and Paragraph 136 of the Framework and B2 of the National Design Guide, insofar as they require schemes to be well-designed.

#### *Sports and recreation*

33. Part C of Policy HS4 of the Local Plan safeguards public open space, sports and recreational buildings and land, including playing fields within Open Space Audit evidence and/or defined on the Policies Map and/or last in sporting or recreational use. They should not be built upon unless the facility is demonstrably surplus to requirements; would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development itself is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
34. This wording is different than that set out in Paragraph 104 of the Framework, which focuses on safeguarding *existing* provision. Paragraph 232 of the Framework states that due weight should be given to development plan policies according to their degree of consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
35. Equally though, the Framework is clear that local policies should avoid the unnecessary duplication of other policies including those within the Framework. It follows that a local policy can apply nuance and even legitimately go further than national policy if there is good reason for it to do so, without it being rendered inconsistent with the Framework in a manner that would have to affect its weight.

36. However, such situations should be based on evidence to justify that distinction. I would expect that evidence to have been aired through the examination of the Local Plan. It is notable that no such evidence has been forthcoming during this appeal. Given that plan examinations are an iterative process that focuses on specific areas of interest, it is not persuasive to simply point out that Policy HS4 was adopted under a prior version of the Framework that had the same wording in relation to the issue of sports provision. Instead, without evidence that the wording of Policy HS4 responds to specific circumstances, the issue of consistency needs to be assessed actively, by looking at the language employed by the two policies.
37. In doing so, I find the relevant wording of Policy HS4 and Paragraph 104 of the Framework to be unreconcilable when they are assessed against the appeal scheme. On the one hand, Policy HS4 applies because the site was last in use for sports and recreation. In not offering up any of the three mitigatory circumstances set out by Policy HS4, the scheme falls into direct conflict with the policy.
38. On the other hand, the significant time that has lapsed since the use of the pitch, the pavilion and tennis courts, some 23 years, alone draws the conclusion that these facilities do not now exist. Added to that is the marked degradation of the site, particularly the pavilion and the pitch; the former is in a significantly moribund state, and the latter simply does not remotely read as having such a purpose.
39. The prohibitive cost of reinstating the pitch is a further factor, as is the agreed issue that the site of the pitch is now acting informally as a not insubstantial attenuation pond for the surrounding urban environment. These factors mean that the facilities on the site cannot reasonably be held to be 'existing', and so Paragraph 104 of the Framework does not apply at all. This is as wide a difference that two policies can maintain when assessed against one individual development proposal.
40. Accordingly, I conclude that the proposal would conflict with Policy HS4 of the Local Plan owing to the loss of sports facilities that were last in use and the absence of mitigation for that loss. However, as the sports facilities do not in practical reality exist, there would not be an unacceptable loss of sports facilities in the Framework's terms.
41. Consequently, I afford the conflict with Policy HS4 only limited weight.

#### Housing Land Supply

42. The Council accepts it cannot demonstrate a five-year supply of deliverable housing sites, but the main parties disagree as to the extent of the shortfall: the Council's figure is now 4.16 and the appellant's is 2.04. The difference between the parties turns on two discrete areas. The first relates to the deliverability of certain sites the Council counts towards its supply. The second relates to whether some of the supply should be discounted to meet a housing need in neighbouring Coventry.

#### *The Coventry issue*

43. The Framework explains that in plan making, authorities should establish a housing requirement figure for their area, which shows the extent to which their housing need, and potentially also any need that cannot be met in neighbouring areas, can be met over the plan period. When a plan is more than five years old and has not been reviewed, authorities should then assess their supply against the local housing need. In evaluating what that local housing need is, the 'standard method'

- must be used, which does not incorporate unmet need from other areas. Thus, the resultant requirement also does not incorporate unmet need from elsewhere.
44. Policy DS1 of the Local Plan identifies a requirement for 12,400 dwellings over the plan period, of which 2,800 (23%) are earmarked to meet an identified need in Coventry. Given the Local Plan is now more than five years old, Rugby is currently operating under the standard method. Despite that, it is put forward by the appellant that, given the approach in Policy DS1, a discount of 23% should be applied to Rugby's supply when assessing the contribution of that supply to meeting its latest housing requirement. After careful consideration, I do not agree with that approach.
45. Paragraph 78 of the Framework is clear that '*authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.* I emphasise 'against' and 'or' because 'against' refers directly to the equation that must be undertaken, and 'or' informs the reader that the two equations are different. In my view it is inherent in that distinction that calculating the supply in either scenario is a wholly separate exercise. It is also trite that, to be accurate, any equation must be balanced from one side to the other.
46. The Planning Practice Guidance goes on to say that '*local need calculated using the standard method should be used in place of the housing requirement.* It also states that in circumstances where the strategic policies are over five years old, '*...the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method.*<sup>2</sup> In my view this unequivocally endorses the view that, if seeking to calculate the extent of housing land supply where the strategic policies are over five years old, there is a paradigm shift from an approach which may incorporate need from other areas to one which explicitly does not.
47. The logic is that when the housing requirement in a development plan is over five years old, the Framework indicates that it should be shelved specifically as a tool in the decision-making process, unless upon review it is up to date. If not, the standard method steps in as the more reliable tool to ascertain a more up-to-date requirement. This interaction does not challenge the statutory primacy of the development plan as the starting point in decision making, but is a typical example of the Framework, in its role as an important material consideration, seeking to influence the decision-making process. I find national policy not silent but rather straightforward on the issue. It strikes me as an overinterpretation of plainly written policy to suggest that the Framework leaves room for a hybrid approach that focuses on local need but arbitrarily adopts favourable facets of the development plan's housing requirement. Such an approach is liable to unbalance the equation.
48. That interpretation is especially unpersuasive here when one bears in mind that Coventry is now also subject to the standard method. Even if this were an area of planning judgment on which national policy is silent, it would make little sense to allocate a proportion of Rugby's housing land supply towards meeting a previously identified unmet housing need in Coventry when Coventry's own calculation of need has since changed. It is more appropriate in the circumstances, and indeed the best way to accurately balance the equation, to simply assess Rugby's housing supply against Rugby's local housing need, and for Coventry to do the same.

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<sup>2</sup> PPG Paragraphs 003 Reference ID: 68-003-20190722 and 005 Reference ID: 68-005-20190722 respectively

49. For the foregoing reasons, I see no logical justification for 23% of Rugby's supply to be removed owing to the requirement in Policy DS1.
50. This matter has been aired in other appeals, and it is important for there to be consistency across appeal decisions. However, this is a complicated issue and the various cases put forward had their own nuances and strategies to consider.
51. In Central Bedfordshire the Inspector stated that an '*equation which compares a 'policy off' objective assessment of need against a 'policy on' supply is an unbalanced assessment*'. To me, this is exactly the appellant's approach in this current appeal. The correct 'balancing exclusion', as the Inspector puts it in Paragraph 53 of the decision, is to exclude the requirement that 23% of Rugby's supply be disaggregated to Coventry, because the demand side of the equation no longer takes Coventry's unmet need into account. The Inspector's reasoning reinforces rather than allays my concerns with the appellant's approach.
52. The Tewkesbury decisions were considered within the ambit of a Joint Core Strategy and donor sites explicitly allocated to neighbouring authorities, a more entangled and '*very specific*' situation. The scenario in Malvern Hills also relates to a joint plan, with specific allocated donor sites. It appears more complex than the situation even in Tewkesbury, let alone Rugby and Coventry. Given the specific complexities apparent within that region, the Inspector's reasoning should not in my view be taken to prescribe a uniform approach for all future decisions outwith that area. Rather, it is clear they sought to decide which of several potential approaches put to them would be the 'best fit' to the various circumstances at issue.
53. In the Warwick decision letter it is not clear if Coventry was under the standard method at the time, nor is there any evidence that the Inspector had to consider how the spatial strategy could or would be affected in a situation where the standard method dictated Coventry having a different housing requirement. This necessarily diminishes the authority I place on its assessment of the strategic relationship between Warwick and Coventry within the context of this current appeal.
54. In South Derbyshire I note from the decision letter that the main parties agreed that some form of discount should be applied to redistribute housing supply from that Council area to neighbouring Derby. Given that the principle of this issue was not therefore 'at issue' between the parties, I cannot be sure that the first principle of it was robustly argued or examined or had to be grappled with by the Inspector. The decision letter is clearly grounded in the agreement of the main parties that it did not. It is also unclear if or not Derby was operating under the standard method at the time. The decision has therefore had little influence on my assessment.

#### *The deliverability of the disputed sites*

55. The Framework sets out that for sites to count towards a housing land supply they must be deliverable. The Framework's Glossary defines that, to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing completions will begin on the site within five years. For sites that are allocated or have outline consent, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. The various appeal decisions cited in relation to this issue do not prescribe the exact method of my assessment but do provide a useful framework of how this issue should best be considered.

56. Based on the standard method the parties agree that the local housing need is for 3,339 dwellings for the period 1 April 2025 to 31 March 2030, which is 668 units annually. This includes the agreed buffer of 5% required by the Framework.
57. The Council includes 680 undelivered dwellings at the Houlton 'Sustainable Urban Extension' (SUE) (referred to as DS3.3 Rugby Radio Station in the Local Plan) within its five-year supply, specifically in relation to the 'Remainder of Houlton Allocation' site within it. While the houses included in the trajectory have only outline consent, the main movement infrastructure at the Houlton SUE is in place, and the delivery of each phase of the SUE is primed with a respective Regulatory Plan. This has effectively created serviced plots for each housebuilder. I also note that various public facilities are delivered and accessible within Houlton.
58. It is unsurprising then that there is a strong record of delivery at the SUE. Appendix C of the Council's rebuttal proof is the most complete picture of the situation I have. It lists all sites on the SUE, whereas the appellant's approach focuses largely on sites which are in the Council's current supply trajectory, which excludes other, delivered sites in Appendix C and therefore derives a lower figure of past delivery.
59. Appendix C shows that 289 homes have been completed on average per year across the period since the first completions were made at the SUE. The Council's trajectory for the Remainder of the Houlton Allocation averages out at 170 homes per year, conservatively below the evidenced rate of delivery at the SUE to date. In my opinion, the considerate and holistic way that the Houlton SUE has been planned and developed, borne out through the pace and quantity of the housing it has already delivered, is sufficiently clear evidence that the Remainder of Houlton Allocation site will realistically deliver housing over the five-year period.
60. That said, there are no live or consented reserved matters applications on the site and, whilst some are in train, it is unclear when they will arrive. The Council has relied on a scheme for 216 homes which is currently subject to an undetermined reserved matters application as evidence for the delivery of the Remainder of Houlton Allocation, but it is positioned elsewhere in the Houlton supply trajectory. The care home consent referenced by the Council also relates to a different part of Houlton and so has little relevance to the delivery of this specific part of the SUE.
61. Appendix C also shows that the time from reserved matters consent to delivery averages 1.5 years at Houlton, which is reflected by the Council only projecting half a year's worth of delivery in the first year it forecasts completions will begin. On this basis, it is most realistic to conclude that the 'Remainder of Houlton Allocation' is deliverable, and to adopt the Council's suggested rate, but delayed by a year. This means that the 200 units predicted to be delivered in 2029/30 should be removed.
62. The Council's analysis of the situation at the South West Rugby SUE is less realistic. This SUE's development appears less proactive, with comparatively less infrastructure in place. Its Homestead Link Road has permission but is not yet been constructed. The community spine road has no consent at all. In terms of the agreed trajectories for housing delivery set out in the pro formas distributed to developers, I apply caution against relying on the figures in the absence of corroboratory or complementary evidence, because it is commercially appealing for developers to be overly optimistic when agreeing to the trajectories.
63. Whilst the site at Cawston Farm 1 is not contingent on the Homestead Link Road, it has only a resolution to grant permission and the legal agreement is unsigned as of

the date proofs were exchanged, some nine months after the Council resolved to grant permission. Even if permission is granted, I understand there is no named developer, and the Council were unable to provide any compelling detail as to the soft market testing currently being undertaken at the site.

64. If permission is granted there would be seven pre-commencement conditions attached to it. It is unclear if or when a reserved matters consent application would be submitted. That the application has been in the planning system for 6.5 years demonstrates why Lichfield's 'Start to Finish' research cannot always be relied upon as clear evidence of a specific site's delivery. The 80 homes included within the Council's updated trajectory for this site should therefore be removed.
65. Cawston Farm 2 has no permission, and a live outline application is subject to two objections from statutory consultees, and so subsequently it has recently been subject to a further consultation exercise. The land promoter for this site did not actively endorse the Council's trajectory for the site (nor indeed Cawston Farm 1). The 80 units it adds to the Council's trajectory should be removed.
66. The 75 units attributed to the site Land South of Cawston Lane should also be removed, as its circumstances are similar insofar as the outline application for it is subject to an outstanding objection from the Woodland Trust. The 72 units included in the trajectory at the Taylor Wimpey site are similarly related to an outline scheme subject to outstanding objections from consultees and should also be removed from the supply on that basis.

#### *Conclusion on housing land supply*

67. Given my findings above, I calculate that a total of 507 units should be removed from the Council's posited supply, leaving a total supply of 2,270 homes for the five-year period. This leads to a supply of approximately 3.4 years. Due the nascent stage of preparation of the Council's emerging Local Plan review, this situation is unlikely to shift with any significance any time soon. I should stress that this figure is derived purely on the basis of the evidence I have read and heard and is adopted specifically for the purpose of deciding this appeal.

#### *Other Considerations*

68. The absence of the, policy justified, planning obligations to mitigate the practical implications of the scheme is a tangible harm, as the shortfall, for instance in relation to education, would have to be met elsewhere or practical harms would likely result. However, it is a harm of very little weight given that it is agreed that the scheme cannot viably meet those obligations and would clearly be undeliverable if it was expected to do so. The corollary of that is that any mitigatory infrastructure subsequently provided by the Council pursuant to the Community Infrastructure Levy, and/or to the New Homes Bonus, are limited benefits in the scheme's favour.
69. In the context of the Council's 3.4-year supply of housing sites, the social and economic benefits of the housing would be significant. The scheme would be deliverable over the next five years and would redevelop an urban site of previously developed land within a highly accessible location. Rugby being the most accessible location in the plan area, with excellent access to sustainable transport.
70. The Framework requires decision makers to promote and support the development of under-utilised land and buildings, especially if this would help to meet identified

needs for housing where land supply is constrained and available sites could be used more effectively. The increased footfall to local services and facilities associated with the scheme would clearly add to the vitality of the town. Major housebuilding schemes bring with them direct and indirect employment benefits. There would be offsite infrastructure works that would benefit existing and future residents. The construction phase would bring notable economic benefits.

71. Within the context of the scheme's lack of viability, the development would provide a sufficiently wide choice of market homes, diversifying the housing stock in Rugby. Public connectivity through the site and the surrounding areas would be improved.
72. The public open space would be a new public asset and, together with the additional tree planting across the scheme, would provide visual, ecological and biodiversity benefits. I also recognise that the site, in its current state, is a magnet for antisocial behaviour, and this would be remedied by the scheme. Individually and in the round, the benefits of the scheme attract substantial weight in its favour.

### **Planning Obligations**

73. In view of the unviability of the scheme, it is appropriate for the UU to set out early and late-stage review mechanisms, in order for affordable housing to be provided on site, or alternatively for any surplus sum to be commuted, should the economic situation improve. In the interest of highway safety and the capacity of the network, the UU would secure contributions towards the Traffic Regulation Order that would be necessary to facilitate the scheme, and the feasibility study relating to works to the Rugby Gyrotory. It would also provide for the enhancements to the path off York Street. The UU would secure Biodiversity Net Gain. However, as I am satisfied that this could have been addressed by a condition, had I been minded to allow the appeal, I would have exercised the blue pencil clause in this respect.
74. Regulation 122 of the Community Infrastructure Levy Regulations (2010) and the Framework set out that planning obligations must only be sought where they meet the relevant tests, including where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the same. I am satisfied that all of the obligations are necessary, directly, fairly and reasonably related in scale and kind to the development and can be taken into consideration as part of the development.

### **Planning Balance**

75. Given the harm that would arise to the character and appearance of the area with respect to the design of the proposal, and owing to the loss of facilities last in use for sports and recreation, the scheme would conflict with the development plan when read as a whole. For reasons already explained, the sports and recreation issue is not of significant bearing to the outcome of this appeal.
76. The issue of design, however, is. Whilst the Framework places emphasis on the need to significantly boost the supply of housing, the benefits of directing development to sustainable locations, making effective use of land and the reuse of previously developed land, it equally places emphasis on the need to secure well-designed places. The first sentence in the Framework's section on design states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

77. It goes on to say that development that is not well-designed should be refused, especially where it fails to reflect local design policies and government guidance, which is the case here. This proposal would not add to the overall quality of the area, as the Framework puts it, because it would perpetuate the creation of places that are not high quality nor well-designed. I am mindful that there would be a permanence to these places. In the context of the Framework, these shortcomings are a potent consideration that weighs heavily against the proposed development.
78. The Framework's explicit, key policy focus on securing a higher standard of well-designed places is different to the 2012 Framework which espoused the refusal of schemes which were more bluntly found to be of 'poor design'. In plain language this was a lower bar for schemes to overcome. Given such, whilst I recognise how the issue of design fed into the Inspector's planning balance in relation to the two referenced appeal decisions for the single site in Worcester in 2013, those decisions have had little influence on my own planning balance in this case.
79. The current Framework separately requires decision makers to give substantial weight to the value of using suitable brownfield land within settlements for homes and notably goes on to say that proposals for which should be approved unless substantial harm would be caused. It further states that decision makers should support appropriate opportunities to remediate despoiled, degraded and derelict land. However, the site would not be suitable for the proposal as the proposal is designed, and so this is not the appropriate opportunity to remediate this site. Logically, the benefits of boosting housing supply and redeveloping brownfield land are rather undermined if that housing would not be well-designed.
80. Given the housing supply situation in Rugby, Paragraph 11 d) ii) of the Framework applies. Whilst I acknowledge that the benefits of the scheme would be substantial, owing to the shortcomings in design, it is my judgment that the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework as a whole.
81. It follows that the other considerations before me do not indicate that I should make my decision other than in accordance with the development plan. Given the synergy and thrust of local and national policy on the matter of design, I would have reached this conclusion had my findings been on all fours with the appellant in relation to the extent of the Council's shortfall of deliverable housing sites.

## **Conclusion**

82. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

*Matthew Jones*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Satnam Choongh Counsel, instructed by St. Modwen Homes

#### They called:

Chantel Blair BSc (Hons) MA MRTPI	Principal Planner, Cerda Planning Ltd
Tom Smith BSc (Hons), MPlan, MRTPI	Associate, Emery Planning
Michael Carr BA (Hons) LA DIP UD RUDP	Architecture and Urban Design Lead, Pegasus Group
Melissa Huree-Hopley	Planning Solicitor, Miller Homes
Nik Woolridge	Principal Engineer, RJA

### FOR THE LOCAL PLANNING AUTHORITY:

Christian Hawley Counsel, instructed by Rugby Borough Council Legal Services

#### They called:

Lucy Davison BSc (Hons) MSc	Principal Planning Officer
Abigail Murphy BSc (Hons) March PGDip	Senior Design Officer
David Gower BSc HND Arch	Arboricultural Officer
Ella Casey BSc MA MRTPI	Principal Planning Officer
Neil Holly MSc MRTPI	Development Strategy Manager

### INTERESTED PARTIES:

Cllr Richard Harrington	Ward Member
Julie Warren	Local Resident
Rachel Jayne	Local Resident

## DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

ID1	Appellant's opening submissions
ID2	Council's opening submissions
ID3	Submissions of Cllr Harrington
ID4	Submissions of J Warren
ID4	Submissions of unnamed resident
ID5	Signed ecology SoCG
ID6	Housing RTS agenda with updated HLS SoCG
ID7	Worcester appeal decisions
ID8	Council's closing submissions
ID9	Appellant's closing submissions
ID10	Updated suggested conditions
ID11	Completed Unilateral Undertaking