
Appeal Decision

Site visit made on 27 February 2017

by B Bowker Mplan MRTPI

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

Decision date: 25 May 2017

Appeal Ref: APP/V3120/W/16/3163560

Land south of The Causeway, East Hanney, Oxfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Lagan on behalf of Lagan Homes Ltd against the decision of Vale of White Horse District Council.
 - The application Ref P16/V0364/O, dated 10 February 2016, was refused by notice dated 30 August 2016.
 - The development proposed is outline application for the construction of up to 24 dwellings with all matters reserved except access (35% affordable).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal as submitted was for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis.
3. The description of development used above is taken from the Council's decision notice which is a description agreed by the parties prior to the determination of the application.
4. Since the submission of the appeal, the Council adopted its Local Plan 2031: Part 1 (LP) on 14 December 2016. The parties have had the opportunity to comment on this matter and submit any LP policies considered relevant to the appeal. The parties also had an opportunity to comment on an appeal decision¹ cited by the appellant. The appeal has been determined accordingly.
5. Additional comments were also sought from the parties regarding the effect of a number of court judgements² on the appeal. The referenced court judgements consider that the Judge in the case of *Wychavon v SSCLG and Crown House Developments Ltd* [2016] fell into error and that the presumption in favour of sustainable development only exists within paragraph 14 of the National Planning Policy Framework (the Framework). The appeal has been

¹ APP/V3120/W/16/3145234, *Mather House & Greensands, White Road and Reading Road, East Hendred, Wantage*

² *Trustees of Barker Mills Estate v Test Valley Borough Council and the Secretary of State for Communities and Local Government (SSCLG)* [2016], *Cheshire East Borough Council v SSCLG* [2016] *Staffordshire Borough Council v SSCLG and Barwood Strategic Land* [2016], *Wychavon v SSCLG and Crown House Developments Ltd* [2016]

determined taking into account the Court judgements and the comments received on this matter.

Main Issues

6. The main issues are:

- whether the proposal would accord with development plan policies regarding housing delivery; and,
- the effect of the proposal on the character and appearance of the surrounding area, and significance of the East Hanney Conservation Area (EHCA) and the setting of nearby listed buildings.

Reasons

Local Housing Delivery Policies

7. Based on its more limited range of services and facilities, LP Policy CP3 defines East Hanney as a larger village and identifies its location within the Abingdon-on-Thames and Oxford Fringe Sub Area. The policy anticipates that unallocated development in larger villages will be limited to local needs and to support employment, services and facilities within local communities.
8. LP Policy CP2 recognises that Oxford City is unlikely to accommodate the whole of its housing requirement. Consequently, it states that the Council will work with other local authorities to contribute towards meeting this need within two years of the LP adoption date. It is anticipated that this approach will ensure a timely and robust plan making process to allocating housing sites.
9. The appellant queries the ability of the Council to demonstrate a five year housing land supply in the context of unmet need from Oxford City. Paragraph 21 of the LP Inspector's Report is also highlighted which states that the Oxford City's unmet housing need does not preclude earlier delivery. However, Policy CP2 states that should no sites be allocated within two years, the LP housing target will be increased to absorb the unmet need. At this early stage, I have no reason to doubt that the Council will meet the requirements of LP Policy CP2.
10. LP paragraph 4.12 and policies CP4 and CP8 anticipate that windfall development (via the development management process) that is in accordance with LP policies and LP Part 2 allocations will have a role in meeting LP housing targets, including at the Abingdon-on-Thames and Oxford Fringe Sub Area. Policy CP4 states that development outside the built area of settlements will be permitted where it has been allocated by the LP, future parts of the LP or by a Neighbourhood Development Plan (NDP). It goes on to state that this development must be adjacent, or well related to the existing built area of the settlement.
11. The proposal would be adjacent and well related to the existing built area of the settlement. However, Policy CP4's reference to development being 'adjacent or well related' relates to development at allocated sites or at sites allocated in future parts of the development plan.
12. LP Policy CP4 further states that development in the open countryside is not appropriate unless specifically supported by other relevant development plan or national planning policy. Policy CP4 affords a presumption in favour of

sustainable development within existing built areas of settlements such as 'larger villages' in accordance with Policy CP1. East Hanney does not have a settlement boundary and the term 'existing built areas' is not defined by the policy. Nonetheless, the proposal would occupy an undeveloped site bounded by open countryside to its immediate south and west. In this respect, I cannot conclude that the proposal is sited within the built area of East Hanney.

13. Whilst the role of windfall development in meeting housing requirements is anticipated by LP Policies CP 4 and CP8, the appeal site has not been allocated for housing development and is located in the countryside for planning purposes. I also note that the 'Summertown' strategic site was part of the submitted LP before it was adopted. In addition, in a letter to the Examining Inspector, the Council do not rule out smaller (non-strategic) development at East Hanney as part of Local Plan part 2 process. However, these factors or the site's location adjacent to the settlement do not guarantee that the appeal site will be an allocated site in part 2 of the Local Plan. Nor does the modest size of the proposal change the fact that the site has not been allocated for housing development in the LP.
14. My attention has also been drawn to an appeal decision at Mather House & Greensands¹. However, as the Council point out, unlike the appeal before me, the proposal was located in the 'Science Vale ring fence' area, a factor which was determinative. Furthermore, as no substantive evidence is before me to the contrary, I am satisfied the Council can demonstrate a housing land supply in excess of 5 years. In this respect, LP Policies for the supply of housing can be considered up to date and thus attract full weight. Moreover, the LP has only recently been adopted and housing allocations are anticipated in part 2 of the Local Plan. In such circumstances, I see no compelling reasons to doubt the LP policy approach to housing delivery.
15. Therefore, I conclude that the proposal would not accord with development plan policies regarding housing delivery. Consequently the proposal would be contrary to LP Policies CP2, CP4 and CP8, the requirements of which are outlined above.

Character, Appearance and Heritage Assets

16. The appeal site is a relatively flat paddock located to the rear of semi-detached dwellings that front onto The Causeway. A network of public right of ways run to the east, south and west of the site. The ECHA is located to the south east and contains four grade II listed buildings which form part of the justification for the EHCA designation. The significance of the listed buildings is based on their rural setting and clustered arrangement; particularly appreciable from roadside views to the east.
17. During my site visit, I saw that the appeal site is visible from Cow Lane and adjacent public footpaths; a factor acknowledged in the appellant's Landscape Visual Impact Assessment. However, views from adjoining public vantage points would be from short distances only and as stated by the Council's Landscape Officer, would be made in the context of existing development along the Causeway and Brookside.
18. Based on my site visit observations and the evidence before me, I am satisfied the proposal would have a negligible effect when viewed from long distant vantage points. Taking into account the separation distances, intervening farm

buildings and extent of vegetation between the site, the ECHA and listed buildings, I am satisfied that subject to appropriate design details at the reserved matters stage, the proposal would preserve the significance of the heritage assets. Based on the reduced density agreed with the Council prior to its decision, a satisfactory layout could also be secured at the reserved matters stage.

19. It has been put to me by a third party that The Stables is a listed building. However, no evidence is before me to indicate that this is the case. In any event, the reasoning above would also apply to The Stables and thus the proposal would not result in any harm in this respect.
20. Finally, I have considered two nearby dismissed appeal decisions³ involving 197 and 200 houses highlighted by the parties. However, in comparison, the appeal site occupies a different and more discrete location and the proposal involves development of a much smaller scale.
21. Therefore I conclude that the proposal would not have a harmful effect on the character and appearance of the surrounding area or on the significance of the ECHA and setting of nearby listed buildings. Consequently, the proposal would meet the requirements of LP Policies CP37 and CP44 and saved 2011 Local Plan policies HE1, HE4 and NE7 which are of most relevance to this matter. Combined, these policies seek to ensure that development responds positively to the site, its surroundings and preserves the significance of the conservation area, the setting of listed buildings and key features that contribute to the nature and quality of a landscape.

Overall Balance

22. Section 38 (6) of the Planning and Compulsory Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
23. The Court judgement referred to above confirms that the presumption in favour of sustainable development exists only in the circumstances set out in paragraph 14 of the Framework. As reasoned above, the Council can demonstrate a five year supply of housing land and the recent adoption of the LP gives me no reason to consider that it is not in accordance with the Framework. Consequently, as LP policies are fully consistent with the Framework and housing supply policies are not out of date, they attract full weight. In this respect, the presumption in favour of sustainable development outlined in paragraph 14 bullet point 4 of the Framework is not engaged.
24. The proposal would comply with LP Policies CP37 and CP44 as reasoned in the second main issue above. It would also comply with LP Policy CP24 via its contribution to affordable housing. However, the proposal's compliance with these policies would be outweighed by its conflict with LP housing delivery Policies CP2, CP4 and CP8. Therefore, the proposal would be contrary to the development plan as a whole. This is a factor that attracts significant weight against the proposal. In this respect, the presumption in favour of sustainable development outlined in paragraph 14 bullet point 3 of the Framework is not engaged.

³ APP/V1320/W/16/3142562 land to the south of Summertown and APP/V3120/W/16/3145359 land south of Steventon Road

25. A number of benefits are associated with the proposal. Firstly, the proposal would make an onsite contribution towards affordable housing; a factor which attracts some weight in favour of the proposal. The proposal would also support local services and facilities and thus lead to economic and social benefits. Economic benefits would also arise via an increase in local spending power and by support to construction employment. These benefits also attract modest weight in favour of the appeal.
26. As the site is within walking and cycling distance to the village centre and public transport links, environmental benefits would arise by reducing dependency on private vehicular transport. These benefits are also afforded modest weight in favour of the appeal.
27. However, an absence of harm in relation to the second main issue can only be considered a neutral factor in the planning balance. Mitigation is also provided by the submitted Unilateral Undertaking (UU, dated 7 April 2017) in respect of waste and recycling provision, public right of way improvement works, education provision and local bus services. Based on the evidence submitted, the obligation would comply with the statutory tests contained in Regulation 122 of The Community Infrastructure Levy Regulations 2010. However, as the UU also relates to mitigation measures, it is a neutral factor when weighed in the planning balance.
28. Combined, the benefits identified above attract some weight in favour of the appeal. However, the primacy of the development plan is established in Section 38 (6) of the Planning and Compulsory Act 2004 and at paragraph 2 of the Framework. In addition, paragraph 14 bullet points 3 and 4 of the Framework are not engaged. Moreover, as one of the Framework's core planning principles, paragraph 17 bullet identifies that planning should be genuinely plan led, empowering local people to shape their surroundings.
29. In this context, the combined weight afforded to the benefits associated with the proposal would be outweighed by the significant weight afforded to its conflict with the LP as a whole and with the Framework's core planning principle that planning should be genuinely plan led.

Conclusion

30. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

B Bowker

INSPECTOR