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# Appeal Decision

Site visit made on 8 June 2016

by **Nick Fagan BSc (Hons) DipTP MRTPI**

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

Decision date: 7 July 2016

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**Appeal Ref: APP/V3120/W/16/3145359**

**Land south of Steventon Road, East Hanney, Oxfordshire OX12 0FG**

- 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 Barwood Rockspring East Hanney Ltd and W. Cumber & Son (Theale) Ltd against the decision of Vale of White Horse District Council.
  - The application Ref P15/V1846/O, dated 31 July 2015, was refused by notice dated 1 December 2015.
  - The development proposed is described as an outline application for the development of up to 200 homes including associated infrastructure works and demolition of existing structures, provision of vehicular access to the site with realignment of the A338 and Steventon Road, and including landscaping and provision of new public open spaces.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Only access is to be determined at this outline stage. Layout, scale, landscaping and appearance are reserved matters.
3. The appellants have submitted a signed S106 Unilateral Undertaking (UU) dated 10 May 2016, and I address this in more detail below.

## Main Issues

1. The main issues are as follows:
  - (a) Whether the proposed development complies with policy in respect of the delivery and location of new homes and the weight to be attributed to such policy;
  - (b) Its effect on the character and appearance of the area: on the wider landscape, village setting and whether it would preserve or enhance the character or appearance of the adjacent Conservation Area; and
  - (c) Whether it would comprise sustainable development.

## Reasons

### Acceptability of the Location in terms of the Development Plan and Emerging Policy

4. The Council's spatial strategy as set out in Policies G1 and G2 of the Vale of White Horse Local Plan 2011 (LP, adopted in July 2006) is to concentrate development in the five main settlements of Abingdon, Botley, Faringdon, Grove and Wantage, and to the west of Didcot. Residential development is
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allowed under these Policies and Policy H11 within the built up areas of villages deemed to have a reasonable range of facilities including public transport, including East Hanney, but only on sites of up to about 0.5Ha and not more than 15 dwellings. The site is outside the village's built up area, is 15.6Ha in size and the proposed numbers of dwellings is well in excess of that stipulated in Policy H11, and so the proposal does not comply with these Policies.

5. However, the LP was prepared and adopted prior to the publication of the National Planning Policy Framework (NPPF) and its housing requirement stems from the now outdated and superseded figures set out in the revoked Oxfordshire Structure Plan and South East Regional Spatial Strategy. The Council acknowledges that it does not have a five-year supply of deliverable housing sites (5YHLS) based on the figures set out in the current up to date Strategic Housing Market Assessment of 2014.
6. This means that these policies are not up-to-date and triggers the fourth bullet point in NPPF paragraph 14, which says that permission should be granted unless any impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies taken in the Framework as a whole.
7. One of the objectives of the NPPF is to boost significantly the supply of housing. However, it also has other objectives, such as the effect of development on the character of specific areas including the countryside. It is agreed between the main parties that Policies G1 and G2 have limited weight because they are out-of-date in the context of the Council's lack of a 5YHLS. But those Policies and Policy H11 are still relevant because they seek to protect the character of villages like East Hanney in accordance with NPPF policy. I will return to this issue when I consider the Planning Balance below, once I have addressed the proposal's effect on the area's character and appearance.
8. The emerging Local Plan 2031 (ELP) has been examined but not yet adopted and so its policies carry limited weight. East Hanney is classified a 'Larger Village' within draft Core Policy 3. Such villages are defined as settlements with a more limited range of employment, services and facilities, and where unallocated development will be limited to providing for local needs and to support employment, services and facilities within local communities. It is notable in this context that although a large part of the site was initially allocated as a strategic site with a capacity for up to 200 dwellings<sup>1</sup> this was revisited following public consultation and replaced by an alternative site south of the village on the opposite side of the A338<sup>2</sup>. However, an application for 197 dwellings on that site (land south of Summertown) was refused by the Council at the same Planning Committee as this proposal, and an appeal against that refusal was dismissed on 25 May 2016<sup>3</sup>. This will also feed into the Planning Balance below.

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<sup>1</sup> Local Plan 2031 Part 1 Strategic Sites and Policies – Housing Delivery Update, Consultation Draft February 2014

<sup>2</sup> Local Plan 2031 Part 1 Strategic Sites and Policies – Topic Paper 3: Strategic sites selection, Publication Version November 2014

<sup>3</sup> APP/V3120/W/16/3142562 (the Summertown appeal)

## Character and Appearance

### *Wider Landscape*

9. The appeal site is an approximately rectangular piece of flat arable land on the eastern edge of East Hanney. Its northern boundary is Steventon Road and western boundary is the main A338 the other side of which is the main built up part of the village. The western boundary is screened from the main road by mature trees and hedges and there is also a gappy hedge along Steventon Road. In contrast the east and south boundaries of the site are open to the surrounding flat countryside. There are some farm buildings immediately to the south and the pylons of a high voltage power line to the east but there is no significant built development visible in these directions aside from distant views of the new road bridge over the main railway line and the cooling chimneys of Didcot power station respectively.
10. The appellants submitted a Landscape and Visual Appraisal (LVIA) with the application. This explains that the site lies within the 'Upper Clay Vales' National Character Area and within the 'Alluvial Lowlands' Landscape Type, and outlines that it is not a designated landscape, nor one which can be said to be particularly valued. It defines the baseline local landscape character value as medium to low because the condition of landscape features is poor and not representative of the distinctive characteristics of the Lowland Vale, although the site abuts the village's main conservation area. I agree with these descriptions in the LVIA.
11. In terms of visual amenity the LVIA states that views of the site by users of the surrounding public rights of way, in particular the nearest one to the south of the site, have a medium overall sensitivity to change, whereas those residents living close to the site have a high sensitivity. I agree. In terms of the sensitivity of road users I agree with the LVIA's assessment that there are no views from the A338 approaching from the north and limited views from the south across the flat landscape, but there are clear views of the site through the gappy hedge on Steventon Road which the LVIA underestimates.
12. The Council's Landscape Capacity Study of Contingency Sites (the *Kirkham Report*, February 2014) considered a much larger site of 50.1Ha stretching further east along Steventon Road and also further to the south, but concluded that only a small part of this abutting the village would be suitable for development on landscape and visual grounds (Site 45)<sup>4</sup>.
13. The appeal site is considerably larger than that reduced site, partly because the illustrative development scheme relies on large belts of landscape planting to the south, east and part of the northern boundary in order to lessen the development's impact from the surrounding countryside. Such landscaping is recommended for this site in the *Kirkham Report*. I agree that such mitigation measures would be effective in screening the development from the wider countryside beyond, despite the fact that the indicative housing layout would stretch considerably further east than the eastern boundary of revised contingency Site 45.
14. There would be no disguising the proposed development from the main part of the East Hanney to the west and indeed the intention is to integrate it into the

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<sup>4</sup> As set out in LVIA, pages 12 & 13 and Annex DM2 of appellants' appeal statement

fabric of the village. But I agree with the LVIA's conclusion that the effect of the development on the wider landscape of the Vale would be minimal, including in distant views from the Area of Outstanding Natural Beauty to the south, and that its local impact could otherwise be effectively screened by the proposed landscape planting belts. I conclude that it would not therefore offend LP Policy NE9, which states that development in the lowland vale will not be permitted if it would have an adverse effect on the landscape, particularly on the long open views within or across the area.

### *Village Setting*

15. I note from the *Kirkham Report* that the reason for drastically reducing the size of Site 45 was that development of the whole site would be out of scale with the rest of East Hanney and that the village's open alluvial landscape setting would be eroded. I acknowledge the LVIA's point that the appeal site is considerably smaller than the original 50Ha size of Site 45, but the proposal would still extend built development into an area of countryside where there is currently no such development and which is not physically or visually part of the village.
16. The older parts of the village are located to the west of the A338. South of Steventon Road the A338 forms a hard boundary to the countryside beyond, including the appeal site. This well-defined village edge is reinforced at this point by the copse of mature trees to the south west of the site and the mature hedge along the roadside.
17. There have been a number of recent residential developments to the east of the A338, for instance at Kings Meadow and Anderson Place, and Lagan Homes are currently building out one of the permissions cited by the appellants on the north side of Steventon Road opposite the site. I acknowledge the other extant permissions in that area and the consequent likely expansion of the village in that direction. But there is no such consented development to the south of Steventon Road and east of the A338. Such development would drastically alter the physical settlement pattern and landscape setting of the village.
18. The proposed realignment of the A338 and Steventon Road and the associated expansion of a 'green' at a new geographic village centre together with the structured landscape belts at the site's edge with the wider countryside attempt to amalgamate the new development into the village. However, I consider this would be only partially successful because the A338 would still carry high traffic volumes – indeed increased volumes as a result of the scheme itself – and so would still act as a barrier between the east and west sides of the village, albeit that new crossings would be provided. Whilst the new pedestrian crossings may be used by existing residents of the village they are only really necessary in order to try and effectively link the new development to the rest of the village and its facilities and so they cannot be described as a benefit of the proposal.
19. It is proposed to signalise the new junction of Steventon Road and the A338 and this would urbanise the village, which currently has a distinctly rural ambience. Additionally it is intended to introduce street lighting within the new development and whilst this is understandable it would also change the rural feel of the settlement, which is predominantly unlit.

20. The Inspector in the Summertown appeal identified East Hanney as a small village with a population in 2011 of just under 750 and around 340 dwellings. Although it would seem that at least some of the above homes to the east side of the A338 have been completed and occupied since then, the proposed development would still be a very large proportionate increase in the size of the village, which would significantly alter its scale, form and character.
21. As in that case, village residents in this appeal object to such an increase in housing numbers and point out that this would be in addition to the cited recent permissions granted by the Council currently under construction or not yet implemented. I agree with the previous Inspector that whilst there is no arbitrary limit on the number of new dwellings a settlement can accommodate, regard must also be had to the impact of development on local distinctiveness and how well it integrates into the settlement.
22. Significantly, he found that the Summertown development would appear as a substantial, self-contained addition wholly out of keeping with the host settlement and with which it would fail to integrate, despite continuing the built form of the village in a southerly direction on the west side of the main road.
23. That scheme was submitted as a full planning application and the Inspector highlighted its failure to provide any dwellings facing Summertown itself and the highly visible location. The proposed development would have extensive landscaped screening and the intention is for houses to front the roads, but there is no doubt that it would be prominent from the realigned A338 and existing dwellings in the village.
24. The appellants' masterplan has some benefits in terms of providing additional areas of public open space and improved segregated permeability for cyclists and pedestrians along the retained current route of Steventon Road. However, these benefits would not disguise the size of the new development and its intrusion into an area of countryside that currently forms a sharp and distinct boundary to the village. Indeed, in this sense, the appeal proposal would have a stronger negative impact on the form of the village than the Summertown scheme, which would at least continue the existing linear form of the village southwards.
25. For these reasons I conclude that the proposal would represent a large exposed and isolated extension of development into the open countryside out of character with the existing form and layout of the village. The proposal is in outline and so subsection i) of LP Policy DC1 is not particularly relevant at this outline stage although I have no reason to conclude from the illustrative scheme that the development would not satisfy it. However, subsection ii) requires development to take into account local distinctiveness and character and for the above reasons I conclude that the proposal would fail to do so. It would not therefore comply with this Policy. It would also fail to comply with the fifth bullet point of NPPF paragraph 17 because it does not adequately take into account the existing character of East Hanney.

#### *Conservation Area*

26. There is a statutory duty that requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of

- conservation areas<sup>5</sup>. There are two conservation areas in East Hanney, the largest of which abuts the site boundary in its north-west corner at the junction of Steventon Road and the A338.
27. The Council's second refusal reason states that residential development of the appeal site would unacceptably erode the open rural setting of the conservation area (CA). It is therefore necessary to determine whether and to what extent the site contributes to the setting and therefore the significance of the CA, bearing in mind that setting is not itself part of the designated heritage asset.
  28. The CA encompasses the majority of the village, in particular the older parts of it: Main Street and some development leading off it, The Green and Hall's Lane. It includes the Fontana restaurant and a few other old buildings on the east side of the A338 north of its junction with Steventon Road. But in the main its character, appearance and significance derives from the buildings in these streets lying within the heart of the village, their mix of vernacular styles and their immediate inward looking street settings, especially at The Green where older cottages and more substantial houses with large gardens are set back behind wide, open grassed verges within which are mature trees.
  29. At the junction of the A338, The Green and Main Street there is a small central green 'island' of land in the middle of which is a mature Horse Chestnut tree, to the north of which is another small area of public open space opposite the Fontana restaurant. From this area there is a glimpsed view of the site through trees on the opposite side of the road junction, and this view would be clearer in the months when there are no leaves on the trees. But this glimpsed view is just that and is in any case constrained by another 'island' of land on the opposite side of the A338 that was formed to the south of the Fontana when the alignment of Steventon Road was changed some time ago, because this too contains mature vegetation which also screens any possible wider views of the site from the CA.
  30. Yew Tree House and St James Barn on the west side of the main road lie within the CA and also have glimpsed views towards the site but the former's view is similarly constrained by existing vegetation and the latter's main elevation does not face in this direction. There are no significant views out from the Fontana or the other properties to its north on the east side of the main road, including the listed Pound Croft Cottage, because they are shielded by this 'island' of vegetation or trees in the garden of the latter dwelling.
  31. Aside from the above glimpsed views of the site there are no other views of the site from the CA. With the exception of these partial views the appeal site does not particularly define the setting of the CA. I conclude for these reasons that the current open countryside nature of the site is not an important element in contributing to the significance of the CA and so the proposed development would in principle preserve its character and appearance, subject of course to acceptable details at the reserved matters stage. It would therefore comply with LP Policy HE1, which requires development within or affecting the setting of a conservation area to preserve or enhance the established character or appearance of the area.

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<sup>5</sup> S72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

### The Planning Balance

32. The NPPF sets out, in paragraph 6, that the purpose of the planning system is to contribute to the achievement of sustainable development, which is defined as the policies in paragraphs 18 to 219 taken as a whole. Paragraph 7 sets out the three dimensions to sustainable development: economic, social and environmental, and paragraph 8 says that these roles should not be undertaken in isolation because they are mutually dependent.
33. The proposed development would generate construction and associated jobs and residents of the scheme would be likely to make the facilities provided in the village more viable as a result of increased demand. But such economic benefits would be no more than proportionate to the number of dwellings delivered and their occupiers, and these benefits could alternatively be delivered in other locations more in accordance with the Council's existing and emerging spatial strategy, and so I do not give them more than limited weight. I give the appellants' claimed benefits of increased Council Tax revenues and New Homes Bonus very limited weight because such income (certainly in the case of the former) is likely to be spent on the provision of Council services for the new residents of the development.
34. The scheme would provide much needed housing, including affordable housing, in a District which lacks a 5YHLS. This would be an important social benefit which carries significant weight in view of the NPPF's aim to boost significantly the supply of housing. It would also deliver public open space, a local equipped area of play, and new footpaths and cycleways which would benefit the wider village community as well as its own residents.
35. In environmental terms the development would deliver ecological enhancements by, for example, opening up some culverts and by strengthening planting and green pathways. There would also be some environmental benefit in terms of reduced noise as a result of diverting the A338 away from the nearest dwellings on the west side of the road, but this would not be a significant benefit because few dwellings are near enough to the existing road to be badly affected by existing traffic noise.
36. However, the proposed development would represent a large exposed and isolated extension of development into the open countryside out of character with the existing form and layout of the village and disproportionate to its existing size. In this regard it would be similar to the recently dismissed appeal scheme at Summertown, although its impact on the village's form and overall identity would be worse because it would occupy land that at present is all open agricultural land to the south-east of the village. This would represent significant harm to the character and appearance of the area and would be a serious environmental disbenefit of the proposal.
37. Policies G1, G2 and H11 are policies for the supply of housing, which are out-of-date because the Council does not have a 5YHLS. But these Policies together seek to protect the character of the countryside and that of villages to ensure that they are not harmed by large scale proposals such as this, and they are supported by policy in the NPPF, such as that in paragraphs 17, 58 and 64. So although these Policies are outdated they are still relevant. In my judgement, and with reference to the recent *Richborough Estates* Court of

Appeal case<sup>6</sup>, failure to comply with these development plan policies is a significant failing of the proposed development.

38. The fact that the Council in its ELP switched the allocated site for 200 new homes at East Hanney from the area of the appeal site to the area south of Summertown showed the Council's intentions for this village at the time the Plan was submitted for Examination. However, this strategic allocation in the ELP has not yet been finally agreed and it is possible, given the recent dismissal at appeal of the Summertown proposal, that the Council may decide to revisit its decision to allocate such a proportionately large housing allocation in the village. Even assuming that the Summertown strategic allocation is retained in the new LP Part 1 once it is adopted, the fact remains that the Council's emerging spatial strategy does not support the development of the appeal site.
39. In conclusion, for the above reasons the above environmental harm would significantly and demonstrably outweigh the social and economic benefits of the proposed development when assessed against the policies in the NPPF taken as a whole. The Council's existing and proposed policies for such major greenfield housing development do not favour this site. It would not be sustainable development for which there is a presumption in favour.
40. The appellants' UU makes provision for a range of benefits, including public open space, 40% of the units to be affordable housing, the highway works via a S278 Agreement and a number of financial contributions for various purposes, some of which are disputed by the appellants. However, these obligations, even if I was to consider that all of them were necessary and justified, would only be required in order to meet the needs of the proposed development, and so they do not outweigh the harm I have set out above. It is not therefore necessary for me to consider them further.

### **Conclusion**

41. For the reasons given above I conclude that the appeal should be dismissed.

*Nick Fagan*

INSPECTOR

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<sup>6</sup> Suffolk Coastal DC, Hopkins Homes Ltd & SSCLG and Richborough Estates Partnership LLP & Cheshire East BC & SSCLG - 17 March 2016 [2016] EWCA Civ 168