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# Appeal Decision

Hearing and site visit held on 13 March 2018

**by Paul Jackson B Arch (Hons) RIBA**

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

**Decision date: 18<sup>th</sup> April 2018**

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**Appeal Ref: APP/D3125/W/17/3184056**

**Land to the west of Church Road, Long Hanborough, 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 Cantay Estates Limited against the decision of West Oxfordshire District Council.
  - The application Ref 16/03948/OUT, dated 25 November 2016, was refused by notice dated 5 June 2017.
  - The development proposed consists of 94 no. dwellings, including starter homes.
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## Preliminary matters

1. The application was submitted in outline with all matters reserved except for access. Indicative plans were provided showing a layout of dwellings and internal roads. I have considered the appeal proposal on this basis.
2. The February 2018 Statement of Common Ground between the main parties was inconclusive on the actual current level of housing land supply. During an adjournment, for the purposes of this appeal, the parties agreed that 4.9 years of housing land supply exist, in the terms set out in paragraph 47 of the National Planning Policy Framework (NPPF). I have considered the appeal on this basis.

## Decision

3. The appeal is dismissed.

## Main Issues

4. Subject to the submission of a Section 106 (S106) Undertaking, the Council withdrew reasons for refusal relating to contributions towards community infrastructure, the future management of the SSSI, the provision of affordable housing, public transport and public art. The Council also declined to defend reasons for refusal concerning traffic congestion and the suitability of the ground conditions for housing development. However traffic congestion is a major concern of objectors.
  5. I consider that the main issues are:
    - The effect of the proposed development on the character and appearance of the area, having regard to the site location outside the settlement area of Long Hanborough; and
    - The effect on traffic congestion.
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## Reasons

### *The site and its surroundings*

6. The village of Long Hanborough lies in gently undulating countryside north of Oxford. The original settlement developed along ridges in the landform on the main (A4095) west-east route between Witney and Bicester, and along Church Road to the south. Farmland to the south west of the settlement had been used for gravel extraction and when exhausted, this was backfilled with waste material to a level significantly below the prevailing ground level. The central part of this area comprises the appeal site. The steeply sloping exposed eastern and northern edges of the former quarry are designated as a Site of Special Scientific Interest (SSSI) for the geological deposits that are revealed. On the west side of the site the land falls towards a stream known as the Caverswell Brook. This runs through a distinct valley separating Long Hanborough from the village of Freeland on the ridge opposite.
7. The village benefits from a reasonable range of services and a railway station about 2km to the east which serves Oxford and London Paddington. There are fairly frequent bus services to Witney and Woodstock and 5 buses to Oxford each weekday.

### *Planning policy*

8. The development plan for the area consists of the West Oxfordshire Local Plan 2011 (LP). The replacement emerging West Oxfordshire Local Plan 2031 (eLP) has been through consultation and public examination. At the time of the Hearing, following further correspondence with the examining Inspector, final modifications had been published for consultation. Emerging policy H2 which covers the delivery of new homes, advises that housing development will be allowed on undeveloped land within or adjoining the built up area where the proposal is necessary to meet housing needs and is consistent with a number of criteria (including policy OS2 *Locating Development in the Right Places*). Policy OS2 refers amongst other things to Long Hanborough's designation as a Rural Service Centre and its capacity to absorb further development. It says '*The rural service centres of Bampton, Burford, Charlbury, Eynsham, Long Hanborough and Woodstock are suitable for development of an appropriate scale and type that would help to reinforce their existing service centre role*'. The relevant part of the proposed final text of the policy reads '*Burford and Charlbury are relatively constrained by their AONB location and Bampton and Long Hanborough have a more restricted range of services and facilities. Consequently, these rural service centres are suitable for a modest level of development to help reinforce their existing roles*.' Objections still remain to the wording of emerging policies including H2 and OS2.

### *Character and appearance*

9. Development on the south side of Long Hanborough grew along Church Road in the form of varied mainly 20<sup>th</sup> century houses. Behind these, post-war housing development has infilled many of the fields between Church Road and the A4095. Houses on the west side of Church Road and on the south side of Churchill Way and Isis Close overlook the appeal site from an elevated position above the SSSI. Development along the east side of Church Road is now being extended by a CALA Homes scheme. Seen from the appeal site, views to the north and east are of housing silhouetted on the skyline above the SSSI.

10. The old quarry appears as an area of unusually level pasture in the otherwise gently rolling landscape which lies within Natural England National Character Area (NCA) 108 'Upper Thames Clay Vales'. Unlike surrounding fields which are largely used for arable crops, the restored quarry is used for equestrian grazing, reflecting the relatively poor quality of the soil. Notwithstanding that, the site retains a strongly rural appearance sympathetic to the wider countryside context. Pasture is a key characteristic of the edge of settlements in West Oxfordshire. It forms part of the rural gap between Freeland and Long Hanborough.
11. The village has grown in a broadly organic fashion along the ridge with subsequent infilling and backland development which is connected to the A4095 and Church Road at various points. The proposed development would be seen in a very different context to surrounding housing and other recent planned or ongoing schemes on the edge of the settlement, of which there are several, some of considerable size. This is because of a) the significant change of ground level resulting from the former quarry use and its reinstatement and b) the gap between the proposed areas of housing and the surrounding village necessitated by the SSSI escarpment and green space. The 'CALA' development is contiguous with existing development along Church Road and does not form a precedent for the appeal scheme.
12. The roofs of the dwellings in the central 'red line' area would be at or below eye height seen from Church Road and from dwellings in Churchill Way and much of Isis Close. Combined with the significant gap between the new houses and existing dwellings, the development would appear isolated from the main part of the settlement and not as a natural or organic extension. There would be no continuity of urban form. The sense of separation would be accentuated by the length and form of the access ramp connecting the development to Church Road across the SSSI, which would be artificial in character; and the pedestrian and cycle 'bridge' up to Churchill Way. Whilst this element could be attractively designed, the extent of the change in level and the length of the necessary ramp above the former quarry face would be apparent.
13. There would be a further erosion of the existing sense of separation between Long Hanborough and Church Hanborough a short distance to the south along Church Road. This is because 'the Piggery', an untidy area of semi-industrial activity and vehicle storage south of the appeal site, would become the new edge of the settlement, rather than appearing isolated between fields.
14. In landscape character terms, the placing of a separately identifiable new neighbourhood at the proposed distinctly lower level would work against the grain of the existing undulating fields with settlements on the highest ground. In visual terms, it would be conspicuous, the more so because it would be clearly perceived from Freeland on the opposite side of the shallow valley as a distinct group of houses approaching the brook. The impression of coalescence would be compounded by the 'CALA' houses which would be silhouetted on the skyline above the scheme.
15. Seen from the footpath that connects Freeland to Long Hanborough, the change would be significant. The new housing is intended to be screened with new planting but it seems likely that future residents would greatly value the view across open fields, as those in Isis Close and Marlborough Crescent do now. Even if it was possible to dissuade the occupants from retaining an open

aspect, the houses would be conspicuous above the trees and street lighting would be prominent at night. Introducing development of this magnitude at this point in the topography would substantially reduce the perception of the Caverswell valley as separating the settlements of Freeland and Long Hanborough.

16. The Guidelines for Landscape and Visual Impact Assessment (3rd edition) indicate that the visual receptors most susceptible to change are generally likely to include people, whether residents or visitors, who are engaged in outdoor recreation, including use of public rights of way, whose attention or interest is likely to be focused on the landscape and on particular views. The footpath between Freeland and Long Hanborough offers users an attractive experience of open countryside which would be significantly altered for the worse. Their sensitivity to change and the magnitude of the impact would be higher than that assumed by appellant. The significance of effect would be correspondingly higher.
17. I conclude that in terms of landscape character and visual impact the proposed development would cause a significant level of harm that could not be effectively mitigated. This would conflict with the character and appearance and countryside safeguarding aims of saved policies BE2, BE4, NE1, NE3 and H2 of the LP; and emerging policy EH1. The proposal would also conflict with a general principle of policy OS2 of the eLP which seeks to protect or enhance the local landscape and the setting of the settlements.

#### *Traffic congestion*

18. The Highway Authority acknowledges the existing slow progress and congestion that can occur on the A4095 which is heavily used in the mornings and evenings. Progress at the button roundabout at the junction with Church Road in particular can be impeded by long queues of slow moving traffic. Pedestrian crossings at other points within the built up area of the village can also cause delays as can the narrowness of Church Road, which restricts vehicles to one-way working close to the roundabout. Acknowledging the concerns of local residents at the potential for additional congestion that approved developments in the village may bring about, having regard to the extensive monitoring that has been undertaken, and having observed the slow moving, sometimes stationary traffic that passes through the village, I do not share the opinion that the additional vehicles travelling to and from the proposed scheme would have a severe residual cumulative impact on the existing situation. Whilst I understand the difficulties caused by rising traffic levels, this matter does not weigh against this scheme.

#### **Other matters**

19. A signed S106 Unilateral Undertaking (UU) has been provided dated 23 March 2018 which is intended to ensure that amongst other things, affordable housing would be provided and contributions made towards education facilities, improved public transport, sports, recreation and play facilities and public art. The public open space would be managed and maintained by a company set up under the S106. A Landscape, Ecology and Geology Management Plan would be put in place intended to ensure the maintenance and conservation of the SSSI. Details of the funding for this would form part of a scheme to be submitted and approved by the Council. In conjunction with suitable conditions, I consider that the provisions of the UU are directly related to the proposed development,

fairly and reasonably related in scale and kind, and if I was otherwise minded to allow the appeal, would be necessary to make the development acceptable. They meet the tests set out in paragraph 204 of the NPPF and Regulation 122 of the CIL Regulations (2010).

20. There are potential difficulties accommodating the anticipated number of children that are likely to be generated by the existing level of development and the proposed scheme would add to these. However it has not been shown that the additional impact would be so severe as to indicate planning permission should be refused.
21. The gravel strata of interest are being colonised by unwanted vegetation and a degree of tipping which could be remedied if the development took place. The creation of the access could enable further useful scientific investigation. However this work could be undertaken if the development did not take place. Moreover, the addition of new dwellings backing onto the SSSI also introduces new risks, for instance if the management company is unsuccessful in preventing future occupiers dumping more garden waste. Overall, I regard the implications for the SSSI as being neutral in the planning balance.
22. Reason for refusal 5 included concerns that the proposed pedestrian and cycle links to Churchill Way to the north of the site and to the footpath to the west would not be feasible or deliverable. An indicative plan shows one method of achieving this link and whilst I have concerns that the link would reinforce a sense of separation, I do not find that it would be impractical to carry out. This matter does not count against the scheme.
23. A number of other concerns have been raised including the impact on neighbouring occupiers in terms of privacy, smoke from chimneys and pollution generally. Whilst I understand these objections, the distance between the proposed dwellings and the existing houses would be likely to mean that any impacts would be small and would not carry significant weight against the proposal.

## **Conclusion**

24. Where policies are out-of-date, paragraph 14 of the NPPF says that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Long Hanborough is recognised as being suitable for further development in the eLP. It is apparent that the Council has made very substantial progress towards achieving the required 5 year level of supply and very significant new housing schemes are in the pipeline. However, at the current time, there is little firm information to indicate that the remaining shortfall will actually be met. In accordance with paragraph 49 of the NPPF, the shortfall means that policies for the supply of housing in the LP should be considered to be out-of-date. The NPPF requires that the supply of housing nationally is significantly boosted. There is no cap on development. The doubt remaining over the wording of emerging eLP policies H2 and OS2 means they cannot be given any significant weight insofar as the location of housing is concerned.
25. The addition of 94 new dwellings, including a substantial number of affordable homes, attracts very significant weight. However, the proposed scheme would have serious disadvantages in the form of a conspicuous harmful impact on the

character and appearance of the area and the countryside, in particular the setting and perceived edge of the settlement and the gap between Freeland and Long Hanborough. A core principle of the NPPF is that planning should 'take account of the different roles and character of different areas.....recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it'. The harmful effects would be experienced for the long term and cannot be effectively mitigated. The adverse impacts of granting planning permission in this case would significantly outweigh the benefits, assessed against the policies in the NPPF taken as a whole.

26. Accordingly, the appeal should fail.

*Paul Jackson*

INSPECTOR

Richborough Estates

## **APPEARANCES**

### FOR THE APPELLANT:

Henry Venners	JPPC
Alex Cresswell	JPPC
Sarah Gadsden	Cantay Estates
Mike Habermehl	Adams Habermehl Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Chris Wood	West Oxfordshire District Council
Mark Holland	West Oxfordshire District Council
Craig Rossington	Oxfordshire County Council
Richard Oliver	Oxfordshire County Council
Hannah Battye	Oxfordshire County Council

### INTERESTED PERSONS:

Penelope Marcus	Long Hanborough Parish Council
Niels Chapman	Long Hanborough Parish Council
Wendy Rawlings	Local resident
Philip Reese	Local resident (representing Hanborough Action Group)
Stuart Brooks	Local resident
Darrell Walls	Local resident

### DOCUMENTS

- 1 List of agreed conditions
- 2 Signed and dated S06 Unilateral Undertaking
- 3 Plan of possible ramp access to Churchill Way
- 4 Copy of written submission of Philip Reese