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## Appeal Decision

Hearing held on 18 September 2018

Site visit made on 18 September 2018

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 November 2018**

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**Appeal Ref: APP/D3125/W/18/3198174**

**Sunset View, Upavon Way, Carterton OX18 1BU**

- 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 O'Brien, Empire Homes Ltd, against the decision of West Oxfordshire District Council.
  - The application Ref 17/02741/OUT, dated 22 August 2017, was refused by notice dated 14 November 2017.
  - The development proposed is the erection of 41 dwellings with associated access and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline, with all matters, save for access, reserved. I have considered the appeal on the same basis and assessed the drawings as merely illustrative insofar as they refer to the reserved matters.
3. During the course of the appeal, national and local planning policies changed. First, the revised National Planning Policy Framework (the Framework) was published. Following this, a written ministerial statement (WMS) regarding the application of paragraph 11(d) of the Framework in decisions in Oxfordshire was issued. Finally, a new local plan, the West Oxfordshire Local Plan 2031 (LP), was adopted on 27 September 2018. Both main parties have had the opportunity to comment on the implications of these changes. I am satisfied that no interested party has been prejudiced by my approach.

### Main Issues

4. The main issues are:
    - whether the site is an appropriate location for the development;
    - its effect on the character and appearance of the area; and,
    - whether the proposal makes appropriate provision for affordable housing infrastructure contributions, and ecological mitigation.
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## Reasons

### *Appropriate location*

5. The appeal site lies adjacent to the town of Carterton, within and on the edge of which, LP policy OS2 anticipates a significant proportion of new homes to be built. Around half the site contains a length of the valley side of the Shill Brook, with the remainder divided between an area of grassland and an area in residential and commercial use.
6. LP policy H1 concerns the amount and distribution of housing. It indicates that the Carterton sub-area will contribute at least 2,680 homes during the life of the Local Plan, of which 238 are anticipated to be from windfall developments.
7. At the Main Service Centres, LP policy H2 permits new dwellings on previously developed land adjoining the built-up area. On undeveloped land adjoining the built-up area, it requires convincing evidence to demonstrate that it is necessary to meet identified housing needs. The text of policy H1 gives examples of such need as district-wide needs, needs identified through a neighbourhood plan or affordable housing needs specific to a particular settlement, for example through a rural exception site.
8. There is no dispute that Carterton is a sustainable location for housing. However, this section of Upavon Way which loops around the outer edge of this part of Carterton and alongside the site tends to separate the housing estate on one side of it from the countryside on the other. The houses turn their backs to the road, and are encircled by high back garden walls and fences. Together with the wide grass verges and trees alongside the road, the edge of the built-up area is clearly demarcated.
9. I appreciate that the skate park and play area have been developed in this periphery. While these are typical features of the built-up area, their scale and parking area is small. They are similar to other parks located in the countryside, but close to housing. Carterton College and its playing field are also located in the periphery, but its footprint adjoins the housing off Burford Road as well as Upavon Way. While these developments have a bearing on this peripheral zone, they do not, when considered with the factors above, suggest that the appeal site is within the built-up area.
10. I acknowledge that part of the site contains previously developed land the reuse of which LP policy EH1 encourages. However, a comparable area is undeveloped which would be occupied by housing. The site is located beyond the built-up area; a substantial part of it is undeveloped; and, there is no convincing evidence that there is an identified housing need which would not be met by the Local Plan. I therefore conclude that the site of this proposal is not an appropriate location for housing. It would conflict with LP policies OS2 and H2. This weighs against the proposal.

### *Character and appearance*

11. The site has a green and largely undeveloped character extending the area of countryside to the edge of the town. While the buildings and structures on the site are noticeable from the countryside, they are limited in size and number. They reflect the sporadic and isolated farmsteads which characterise the surrounding countryside.

12. The illustrative site plan shows how the side of the valley could be retained free of housing which would reduce the potential for any conflict with the Shill Brook. However, the ridge would be occupied by houses, gardens and service roads and courtyards. While I have taken account of the existing development on part of the site, such a suburban form of development, particularly on the undeveloped section, would be out of character with the rural landscape to the west of the site.
13. I have taken into account the trees proposed to be planted to contain the development, and the enclosing effect of the proposed drystone walls and hedges. I also note the arrangement of the houses suggests that many would face the countryside end-on, reducing their visual impact. I also saw on walking along the public right of way to the west that the buildings at Alvescot Farm would foreground the development in views from the north-west.
14. However, notwithstanding these factors, within its wider setting, the development would be conspicuous in views from the west. That the site is a cleared area in the wooded fringe of the town does not mean that filling it with 41 dwellings will improve its aesthetic. On the contrary, the open landscape of the site reflects the character of the countryside to the west. It makes a significant contribution to the rural character of the setting of the town. Against the woodland to the south and the expansive open fields to the north, the development would appear in public views from the west as an urbanising incursion of the town into the agricultural landscape of the countryside which provides its distinctive setting.
15. Though the site is partially screened by an enclosure of trees and hedges along Upavon Way there are substantial gaps from which the foreground of the undeveloped part of the site and the open countryside beyond are visible. Together with the new access from Upavon Way, the urbanising effect of the development on the rural setting of the town would be prominent. I note the potential to provide public access to part of the site, but as there are no firm proposals before me I give this little weight.
16. The appellant's Landscape and Visual Impact Assessment concludes that the development would have a minor negative impact on the character of the area and minor negative visual impact. However, despite appearance, scale and layout being reserved matters, it is clear that the proposed development of a largely undeveloped site in this location would cause significant harm to the landscape character and appearance of the area. It would conflict with LP policies OS2, EH1, and CA3 where they require development to conserve and, where possible, enhance the intrinsic character, quality and distinctive natural and man-made features of the local landscape, and the character and setting of Carterton.

*Affordable housing, infrastructure contributions, and ecological mitigation*

17. The appellant does not dispute the level of affordable housing and financial contributions towards meeting the need for additional facilities and services arising from the development which is sought by the Council and County Council. The terms of draft agreements were agreed between the parties at the Hearing. Following this, executed planning obligations with the District Council and with the County Council have been submitted.

18. In accordance with LP policies CA3 and H3 the agreements would secure the provision of 35% of the housing as affordable housing. LP policies OS2 and OS5 require development to be supported by all necessary infrastructure and to contribute towards the provision of essential supporting infrastructure. To this end the agreements would contribute towards early years education, primary education, public transport, highway works, and contributions to sports facilities at Carterton Community College, enhancement of play grounds in the area and a public art activity to connect the new development into the community. The Councils have justified the various sums sought against the most recent data available.
19. LP policy EH3 seeks to avoid the loss, fragmentation or loss of functionality of the existing green infrastructure network, and LP policy CA3 seeks to protect and enhance the biodiversity of the Shill Brook Valley in the Carterton sub-area. I appreciate that a substantial tract of the land within the South Cotswold Valleys Conservation Target Area would be occupied as a result of the development, by housing. This would conflict with some of the objectives of these policies.
20. However, the appellant's Landscape and Ecology Management Plan recommends numerous improvements to the section of the site which would remain undeveloped, not least the restoration of the river corridor to lowland meadow habitat. The planning obligation with the District Council incorporates measures which could secure these improvements and their ongoing management and maintenance. Given that the section for this development already contains development and a field of improved grassland, I consider that the ecological improvements proposed in the undeveloped section would mitigate the loss of the area for housing. In this respect, and subject to the measures in the planning obligation, I find no conflict with LP policies EH3 and CA3.
21. I consider that the measures in the agreements are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework. I conclude therefore, that the proposal would make the necessary provision for affordable housing, infrastructure contributions, and ecological mitigation. There would be no conflict with LP policies OS2, OS5, H3 and CA3.

### **Other Matters**

22. At the time the appeal was made, it was common ground that the Council could not demonstrate a 5-year supply of deliverable housing sites. However, the WMS issued on 12 September amends national planning policy so that for the purposes of decision-taking, paragraph 11(d), footnote 7 of the Framework will apply where the authorities in Oxfordshire cannot demonstrate a 3-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The appellant accepted at the Hearing that the Council's land supply would not amount to less than 3 years.
23. Moreover, the Examining Inspector's report on the examination of the new Local Plan, which was adopted after the Hearing, and the ink of which is barely dry, concluded that it would provide a 5-year supply of deliverable sites for housing. Accordingly, the presumption in favour of sustainable development in paragraph 11 does not apply.

## Conclusion

24. The development would make the necessary provision for infrastructure contributions, and ecological mitigation. It would provide the social benefit of 41 additional dwellings to local housing supply, in a sustainable location, including a substantial proportion as affordable housing when there are around 150 families in Carterton waiting for housing. Being a medium size development, it could be built relatively quickly. It would bring economic benefits too, from its construction and from the spending in the local economy of the future occupiers, who would also have access to a range of local amenities and public transport which would have environmental advantages.
25. However, these benefits would not outweigh the harm it would cause to the landscape character and appearance of the area. There are no other considerations which would outweigh the conflict with the development plan. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

*Patrick Whelan*

INSPECTOR

### Appearances

FOR THE APPELLANT:

Mrs Jon Westerman	Director, Edgars Ltd
Mr Charlie Clews	Landscape Architect Clews Landscape Architecture Ltd
Mr Paul O'Brien	Empire Homes Ltd
Mr Jonathan Hayes	Land owner

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Catherine Tetlow	Principal Planning Officer West Oxfordshire District Council
Ms Andrea Clenton	Landscape Architect West Oxfordshire District Council
Ms Judith Coats	Infrastructure Planning Officer Oxfordshire County Council
Mr Matthew Case	Infrastructure Planning Officer Oxfordshire County Council
Mr Tim Peart	Transport Development Control Officer Oxfordshire County Council

### Documents submitted at the Hearing

1. Statement about pooling of contributions, by Oxfordshire County Council
2. Draft planning condition, by West Oxfordshire District Council

### Documents submitted after the Hearing

1. Planning obligation with West Oxfordshire District Council
2. Planning obligation with Oxfordshire County Council