



Appeal Decision

Hearing held on 16 December 2014

Site visit made on 16 December 2014

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 13 January 2015

Appeal Ref: APP/V3120/A/14/2223292

Land off Steventon Road, East Hanney OX12 0HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Greenland Henley Ltd against Vale of White Horse District Council.
 - The application Ref.P13/V2266/O is dated 11 October 2013.
 - The development proposed is described as 'outline application for mixed use development with layout, appearance, landscaping and scale reserved, comprising 2 one-bedroom, 15 two-bedroom, 3 three-bedroom, 15 four- or five-bedroom dwellings (35 total Use Class C3) with commercial building (B1, A2 or D2 use) not exceeding 500 square metres GFA, including new access to Steventon Road'.
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Preliminary Matters

1. The scheme was amended from that originally promulgated and it is agreed by the main parties that the proposal is 'a residential development of up to 35 dwellings with a new access on to Steventon Road'. Moreover, the originating application was made in outline with all matters, save for access, reserved for future determination. I have proceeded on that overall basis and treated all details on the submitted plans that go beyond access as illustrative.
2. Applications for costs have been made by the appellant against the Council, and vice-versa. These applications are the subject of separate Decisions.

Decision

3. The appeal is allowed and outline planning permission is granted for a residential development of up to 35 dwellings with a new access on to Steventon Road on Land off Steventon Road, East Hanney OX12 0HS in accordance with the terms of the application, Ref.P13/V2266/O, dated 11 October 2013, subject to the conditions set out in Annex A to this decision.

Main Issue

4. The Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. This means, having regard to paragraph 49 of the Framework¹, that LP² Policies GS1 and GS2, which dictate where the provision of new housing will be considered acceptable, are not up-to-date.

¹ The National Planning Policy Framework

² The Vale of White Horse Local Plan 2011

5. This directs the decision-maker to paragraph 14 of the Framework. The appeal site is not in a location where specific policies in the Framework indicate that development should be restricted.
6. As such, where the development plan is out-of-date, paragraph 14 says that planning 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 Framework, considered as a whole.
7. The main issue to be considered, therefore, is whether any adverse impacts of the proposal significantly and demonstrably outweigh any benefits it would bring forward.

Reasons

8. The position of the Council outlined at the Hearing was that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits and, as such, planning permission should be granted for it, subject to conditions and the obligations. Nevertheless, interested persons raised a number of issues that merit consideration.
9. When dealing with the application the Council did have concerns about flooding, as did a number of local residents. However, the EA³ eventually agreed with the appellant that the appeal site is in Flood Zone 1 and raised no objection. Indeed, the main concern about the appeal site, in these terms, revolves around the propensity of the site to flood as a result of inadequate surface water drainage.
10. However, providing the disposal of surface water, and sewage, is dealt with properly, matters that can be addressed by condition, the provision of housing on the site would not make that situation worse and indeed, is very likely to make it better. The proposal would have no adverse impact in this regard, therefore, and I see no departure from LP Policies DC13 and DC14 that address flood risk and surface water.
11. The Council also raised concern about the impact of the access on the Steventon Road frontage. I accept that the trees and shrubs that form the boundary to Steventon Road are attractive features. The access would result in the loss of a relatively short stretch, including a tree, but as I saw at the site visit the overall impact of the visibility splays on the trees and shrubs would be minimal. There would however be something of an adverse impact as a result of the provision of the access that would add to the overall harmful impact endemic in the provision of housing on what is currently a paddock.
12. This would bring the proposal into conflict with LP Policy NE9 that seeks to protect the landscape characteristics of the Lowland Vale. I accept that paragraph 109 of the Framework tells us that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes.
13. However, the appeal site is perceived as part of the urban fringe of the settlement rather than part of the wider landscape. As such, the harm caused by the proposal to the character and appearance of the area would be very limited.

³ Environment Agency

14. Residents of the dwellings to the west of the appeal site would experience a change in outlook as a result of the proposal. However, the separation distances involved, along with the existing boundary treatments, would be more than sufficient to ensure that the resulting visual impact would have no undue effect on their living conditions. For the same reasons, any noise and disturbance whether during the construction period, or as a result of eventual occupation, would be well within reasonable bounds.
15. On that basis, the proposal complies with LP Policy DC9 that seeks to ensure development will not unacceptably harm the amenity of neighbouring properties and the exhortation in the Framework to always seek to secure a good standard of amenity for all existing occupants of land and buildings.
16. Turning to the benefits, paragraph 47 of the Framework sets out the need to boost significantly the supply of housing. The provision of open-market and affordable housing is obviously beneficial in the light of that but even more so when, as the Council acknowledged here, a five-year supply of deliverable housing sites cannot be demonstrated. There will be economic benefits in the construction and subsequent occupation of the dwellings proposed too.
17. Taking all those points together, the very limited adverse impacts that would flow from the proposal come nowhere near significantly and demonstrably outweighing the benefits it would bring forward. As such, the proposal benefits from the presumption in favour of sustainable development and planning permission should be granted for it.

Conditions and the Obligation

18. I have considered the suggested conditions in the light of advice in paragraph 206 of the Framework, and what remains of Circular 11/95⁴.
19. In terms of the conditions designed to address the submission of reserved matters, I accept that given the prevailing situation in terms of housing supply it would be beneficial if the dwellings came forward sooner rather than later, but implementation is a matter for the appellant and in the light of my conclusions above, see no good reason to depart from the standard timescales.
20. A condition is required to set out the approved plans but this does need to take into account that fact that the application was made in outline with everything but for access reserved for future determination. I have not included those plans that are illustrative only.
21. The trees on the site that are to remain make an important contribution to the character and appearance of the area so it is necessary to apply a condition to address their protection in the course of construction works. Given the importance of the existing natural boundaries, it is also necessary to apply a condition to cover hedgerow management.
22. As set out above, to address any likelihood of flooding, a condition is required to secure details of surface water and foul drainage and to ensure the measures set out in the Flood Risk Assessment are implemented. It is also reasonable to attach a condition to address ecology in the terms set out in the Phase 1 Habitat Survey Report.

⁴ Circular 11/95: *The Use of Conditions in Planning Permissions*

23. Given highway conditions in the vicinity of the site, conditions are necessary to secure a Construction Traffic Management Plan and to ensure that the access proposed is completed, including the provision of visibility splays, before any other development takes place. A condition is also required to ensure that pedestrian and vehicular access to each particular dwelling is complete before it is occupied. That condition renders the suggested condition relating to the provision of footpaths superfluous. I understand that the pedestrian crossing referred to in the suggested condition has already been provided as part of another development. In order to comply with LP Policies H17 and H23, conditions are also necessary to deal with the provision of on-site affordable housing and open space.
24. The appellant has produced two completed obligations. The first, a Unilateral Undertaking dated 16 December 2014 is addressed to the District Council and deals with a series of financial contributions, the second, an Agreement with the County Council dated 7 January 2015, deals with another series of financial contributions, as well as highway matters.
25. I have considered the content of the obligations in the light of advice in paragraph 204 of the Framework, which reflects Regulation 122⁵. This states that a planning obligation may only constitute a reason for granting planning permission if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
26. Like the highway works, some of the financial contributions, in the obligations are intended to mitigate impacts the development would have on local facilities and services and, as such, comply with Regulation 122, and the advice in the Framework. Others, such as the 'Waste Collection Contribution', the 'Police Equipment Contribution', the 'Parish Contribution' and the 'Museum Resource Centre Contribution' are of rather more doubtful provenance, in my view. However, because the obligations contain no mechanism which allows the appellant to avoid the payment of a financial contribution in the event of a finding that the financial contribution at issue does not comply with Regulation 122, there is little to be gained by examining each separate financial contribution forensically. Confirmation at the Hearing that the appellant did not, and would not, seek to avoid any of the financial contributions proffered, underlines that conclusion.
27. It suffices to say that while the highway works and some of the financial contributions offer necessary mitigation (in other words are neither positive nor negative factors), others are obviously not necessary to make the development acceptable in planning terms. As a consequence of that conclusion, none of the provisions in the obligations have influenced the balancing exercise set out in paragraph 17 above.

Conclusion

28. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

⁵ Of the Community Infrastructure Levy Regulations 2010

APPEARANCES

FOR THE APPELLANT:

Andrew Boughton	BB Architecture and Planning Ltd
RIBA MRTPI	
Daniel Stiff	BB Architecture and Planning Ltd
BA(Hons) M.Arch	
Edward Simons	Appellant
Alan Pontin	Appellant
Carly Tinkler	Carly Tinkler Associates
CMLI	
Ben Pontin	Appellant
Robert Searby	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Peter Brampton	Senior Planning Officer (Major Applications)
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INTERESTED PERSONS:

Hamish Gowen	Local Resident
John Graham	Steventon Road Nurseries
Ian Prosser	Oxfordshire County Council

DOCUMENTS

- 1 Extract from Manual for Streets 2
- 2 Sketches showing extent of tree and shrub removal around access
- 3 Additional copy of objection letter dated 23/01/14 put in by Mr Gowen
- 4 S.106 Compliance Table
- 5 Identification Plan
- 6 VoWHDC Leisure and Sports Facilities Strategy 2012-2029
- 7 VoWHDC SPG: Planning and Public Art
- 8 VoWHDC SPD: Open Space, Sport and Recreation Future Provision
- 9 Completed Unilateral Undertaking to VoWHDC dated 16 December 2014
- 10 Draft Agreement with OCC
- 11 Completed Agreement with OCC dated 7 January 2014

PLANS

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| A | 1316/001B: Site Location Plan |
| B | 1316/002C: Block Plan |
| C | P924/101A: Proposed Access Arrangements and Visibility |
| D | P924/102A: Proposed Access Arrangements and Visibility |

Annex A: Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1316/001B: Site Location Plan; 1316/002C: Block Plan; P924/101A: Proposed Access Arrangements and Visibility; and P924/102A: Proposed Access Arrangements and Visibility.
- 5) No development shall take place until an arboricultural method statement, giving details of the protection of trees and hedgerows during the construction period, has been submitted to and approved in writing by the local planning authority. The arboricultural method statement shall include details of: (a) protective fencing and/or ground protection measures; (b) a programme for their implementation; and (c) any works required to trees and/or hedgerows to prevent accidental damage by construction vehicles. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a scheme of hedgerow management has been submitted to and approved in writing by the local planning authority. The hedgerow management scheme shall be implemented in accordance with the approved details.
- 7) No development shall take place until details of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. Development shall be completed in accordance with the approved details before the occupation of any of the dwellings approved herein.
- 8) The development shall be implemented in accordance with all proposed measures contained within the Flood Risk Assessment that accompanied the application.
- 9) The development permitted herein shall be carried out in accordance with the recommendations contained in Chapter 6 of the Phase 1 Habitat Survey Report produced by Focus Ecology.
- 10) No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall be adhered to for the duration of construction period.
- 11) No other development shall take place until the vehicular access to the site, and the visibility splays serving it, have been formed in accordance with the approved plans. The access and visibility splays shall be retained in their approved form thereafter.

- 12) No dwelling shall be occupied until the pedestrian and vehicular accesses, and parking and manoeuvring areas serving it have been completed. The parking and manoeuvring areas shall be retained for their intended purposes thereafter.
- 13) No development shall take place until a Green Travel Plan (GTP) has been submitted to and approved in writing by the local planning authority. The GTP shall be implemented in accordance with the approved details.
- 14) No development shall take place until a scheme for the provision of affordable housing, on-site, has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved details. The scheme shall include: (a) the number, type and location on the site of the affordable housing units which shall amount to 40% of the units in the total development; (b) the form of tenure by which each unit will be occupied; (c) the timing of the construction and occupation of the affordable housing and its phasing in relation to the construction and occupation of the open-market housing; (d) the arrangements for the transfer of the affordable housing to an affordable housing provider for the management of the affordable housing if no Registered Housing Provider is involved; (e) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and (f) the occupancy criteria to be used for determining the identity of the occupiers of the affordable housing and the means by which such occupancy criteria will be enforced.
- 15) Before any of the dwellings are occupied, a scheme for the provision, management, and maintenance of open space, on-site, including an implementation programme, shall be submitted to and approved in writing by the local planning authority. The open space shall be provided, managed, and maintained, in accordance with the approved details.

Richborough Estates