



Appeal Decisions

Inquiry held on 15 /16 May and 13 June 2012

Site visit made on 13 June 2012

by Olivia Spencer BA BSc DipArch RIBA

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

Decision date: 16 August 2012

Appeal A Ref: APP/F2415/A/11/2160313

Land off Station Lane, Scraptoft, Leicester

- 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 Davidsons against the decision of Harborough District Council.
 - The application Ref 10/01045/OUT, dated 2 August 2010, was refused by notice dated 9 March 2011.
 - The development proposed is residential development of up to 100 dwellings.
-

Appeal B Ref: APP/F2415/A/11/2163769

Land off Station Lane, Scraptoft, Leicester

- 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 Davidsons against the decision of Harborough District Council.
 - The application Ref 11/00853/OUT, dated 23 June 2011, was refused by notice dated 26 October 2011.
 - The development proposed is erection of up to 41 single and two storey dwellings.
-

Decisions

1. The appeals are dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Davidsons against Harborough District Council (HDC). This application is the subject of a separate Decision.

Preliminary matters

3. The applications are in outline with access only to be considered at this stage and all other matters reserved for later consideration.
4. A section 106 undertaking in respect of each appeal was submitted at the Inquiry. The undertakings concern the provision of affordable housing, and contributions towards police facilities, open space maintenance and community facilities, healthcare facilities, ecology mitigation measures, open space and a balancing basin, education facilities, and the provision of transport facilities and infrastructure.
5. Although not a reason for refusal HDC raised the issue of potential cumulative impact of appeals in the area on the capacity of the junction of Station Road with the A47 prior to the Inquiry. Having carried out a capacity study of the

junction Mr Seedat on behalf of the Highway Authority confirmed in April 2012 that, subject to operating adjustments, the junction had sufficient capacity and that HDC would not be calling a highways witness.

6. An appeal decision relating to a site at Sapcote Road, Sapcote (APP/T2405/A/11/2164413) was issued after the close of the Inquiry on 27 June 2012. The main parties were given the opportunity to comment on the decision. I have taken submitted comments into consideration in coming to my decision.

Main Issues

7. The main issues are:
 - the effect of the proposed development on the character and appearance of the countryside and on the designated Area of Separation and
 - whether a 5 year supply of deliverable housing land can be demonstrated.

Reasons

Countryside and the Area of Separation

8. The appeal sites sit within the High Leicestershire Character Area which is described as comprising broad rolling ridges and varied often steep-sided valleys, sparse settlements of small villages and quiet country with a remote, rural and empty character. The *Leicester PUA Landscape Character Assessment and Landscape Capacity Study (LCS) 2009* notes that around Thurnby and Bushby and Scraftoft the urban influence of Leicester is apparent. The sites lie also within the designated Scraftoft and Thurnby Area of Separation (AoS) where Policy EV/3 of the Harborough District Local Plan (LP) 2001 seeks to prevent the coalescence of villages. The Policy states that development within a designated AoS will be refused if the proposal would adversely affect the predominantly open character of the land or would result in a reduction in the existing open land separating the settlements concerned.
9. LP Policy EV/3 is retained by the *Harborough District Local Development Framework Core Strategy (CS)* which was adopted in November 2011. Policies CS1 and CS15 carry forward the principle of AoS to 'ensure the retention of the identity of the Leicester Urban Fringe settlements and prevent coalescence between the villages of Scraftoft and Thurnby/Bushby'. Policies CS13 to C17 are place based policies. Policy CS17 which replaced LP Policy EV/5, addresses development in the Countryside, Rural Centres and Rural Villages beyond the Leicester Principal Urban Area (PUA). CS15 refers to the PUA. It is evident from the policy itself, the introduction and the explanatory text that it addresses development in and adjoining the communities of Scraftoft and Thurnby/Bushby and is clearly the relevant place based policy in this case.
10. The sites form part of land parcel 25 in the 2009 LCS which is described as occupying prominent sloping land with views to it from Thurnby to the south and through gaps in the hedge from Covert Lane to the north. The commentary notes that any development within the parcel is likely to lead to coalescence of Thurnby and Scraftoft and that it would be difficult to mitigate any development in this location. A capacity score of 26 was awarded to the parcel giving overall a 'Medium' capacity to accommodate development. When

the Appeal A site was assessed using the LCS criteria in the *Response to Landscape Visual Impact Assessments 2011* the site retained the 'Medium' capacity range but with a slightly improved score of 28. The report notes that the score is different because unlike the land parcel as a whole the application site would not cause complete coalescence of Scraftoft and Thurnby. However, 'prevention of coalescence' is just one of 9 criteria in the landscape sensitivity appraisal and as such has only a relatively small role in influencing the overall capacity score.

11. In terms of AoS, parcel 25 is in my view particularly sensitive. It adjoins that part of Station Lane not enclosed on both sides by built development and thus the only point on the journey between the historic centres of Scraftoft and Thurnby/Bushby where substantial views to agricultural land and the countryside are available. And as recorded, it occupies prominent sloping land visible from Thurnby to the south. From Sedgefield Drive the paddocks that make up the parcel are seen to rise up the slope, beyond the built up area of Thurnby, to Covert Lane and Scraftoft on the crest of the hill. Whilst the parcel comprises a relatively small percentage of the total area of the AoS and notwithstanding the coalescence that has already occurred, the contribution it makes to the perceived separation of the villages is thus substantial.
12. Both the appeal proposals leave land in the higher northern part of parcel 25 outside the red line development area. In addition a condition suggested by HDC and accepted by the appellant (condition no.4 in the Officer's Report to Committee) would confine dwellings proposed in the Appeal A scheme to land south of the an existing mature hedgerow that runs east – west across the site, approximately in line with the northern most of the houses fronting Station Lane. The 41 unit scheme (Appeal B) would provide dwellings across a smaller area, leaving a triangle of land south of the east-west hedgerow also outside the site.
13. The open and agricultural character of the northern half of parcel 25 would nevertheless be affected. The proposed access would introduce a hard surfaced road, footways, street lighting, signage and vehicles into what is now a field of pasture. Further the road would lead the eye past the side boundary of no.117 and the large back gardens of the bungalows and houses fronting Station Lane to a dense area of two and two and a half storey housing. Although few if any of the Appeal B dwellings would be directly visible across the open field from Station Lane, both schemes would thus result in a perceptible suburbanisation of the site and corresponding erosion of the remaining gap between Thurnby and Scraftoft at this point.
14. From Sedgefield Drive the visible green slope would appear populated with residential development. Appeal A scheme houses laid out running up to the retained cross hedge would obscure the hedge and much of the field beyond leaving at best only a thin line of pasture across the northern end of parcel 25 visible in front of the vegetation along Covert Lane. Houses built beyond the cross-hedge would reduce this further. The proposed 41 dwellings of the Appeal B scheme would extend less far up the slope, but a significant depletion of the AoS would nevertheless be perceptible.
15. From Covert Lane (appellant's viewpoint 2) the slope of the hill would conceal all but the northern most of the proposed Appeal A houses, but moving south along footpath D19 the proposed access road would quite quickly come into view followed by the houses, seen first above the cross-hedge and then

through the eastern boundary hedge along which the footpath runs. Proposed planting along the eastern, northern and southern boundaries would help to soften the visual impact of the development on longer views within the landscape. Close too, even mature and well maintained planting would do little to disguise the urbanising effect of residential development on the rural character and appearance of the countryside. With either appeal scheme users of the footpath would thus experience very little rural gap between Covert Lane at the edge of the Scraftoft Conservation Area, and the access road and housing of the proposed developments.

16. The topography of the land is such that from a number of further views east of the site the proposed housing would either be concealed the slopes of the valley sides or seen against the back drop of existing development. Approaching Thurnby/Bushby from the east along the high ridge of the A47 however, the site is clearly visible and although at a distance it is seen as part of the countryside setting of Scraftoft. Development on the site would thus have the effect of increasing the visible coalescence of Scraftoft and the wider Leicester urban area.
17. In terms of impact on the wider landscape, the proposed drawing back of housing from the higher northern slope of the parcel 25 could be considered to improve its landscape capacity score. However, the whole of the parcel lies within the designated AoS and protection of the northern part from future development by the provisions of the submitted S106 undertakings would not thus provide tangible positive benefits in these terms. If developed as proposed, the sites would no longer form part of the open countryside, their rural agricultural character would be lost and the physical extent of the AoS would be diminished. As such the proposed developments would conflict with the requirements of LP Policy EV/3. Notwithstanding the views of Officers expressed in the report to committee, I conclude also that the developments proposed would reduce the perceived separation between, and thus the separate identities of, Scraftoft and Thurnby/Bushby contrary to the objectives of Policy EV/3 and the clear thrust of the recently adopted Policy CS15.

Housing land supply

18. One of the fundamental objectives of the CS is to meet the housing needs of the district's population over the plan period. The plan sets a target of 7700 dwellings to be provided in the district, with a minimum of 880 to be provided in the Leicester Principal Urban Area (PUA).
19. Provision of a wide choice of high quality homes is part of the Government's policy for delivering sustainable development set out in the National Planning Policy Framework (The Framework). The Framework requires local planning authorities to identify 5 years worth of deliverable housing sites against their housing requirements together with a buffer of 5 percent in order to provide a realistic prospect of achieving planned supply.
20. There is no dispute between the appellant and HDC that a 5 year supply of housing land for the District cannot be demonstrated. HDC has provided a summary of Deliverable Housing Sites Supply dated 31 March 2012 that indicates a supply equating to 4.6 years. The appellant suggests a figure of 3.4 years is more accurate. HDC's summary does not include sites on land east of Northampton Road, Market Harborough or land north of Scraftoft Campus. These sites together have the potential to provide up to some 260

units. If included, as Thurnby/Bushby and Scraftoft Parish Councils (Parish Councils) consider they should be, the submitted summary would suggest a supply of 5.35 years in the District and 6.8 years in the PUA. However, Planning Permission has yet to be granted pending completion of s106 agreements. Whilst I note that some progress has been made towards progressing development on the Scraftoft Campus site, the submitted evidence does not indicate that these 2 schemes are at present deliverable.

21. Delivery of 100 of the 1000 units planned in the Market Harborough Strategic Development Area (SDA) in 2016/17 is included in the HDC summary. However planning permission has yet to be granted and a master plan for the SDA is not scheduled for completion until December 2012. Without this, programming of construction phasing and infrastructure provision can only be speculative. Slippage of the first 100 dwellings beyond the 5 year period is therefore in my view a serious possibility and little reliance can therefore be placed on its contribution to the district's 5 year housing land supply.
22. Whilst I acknowledge the progress HDC has made in recent months towards meeting its housing land supply target, I conclude that a 5 year supply of deliverable housing land cannot be demonstrated.

Conclusion

23. Paragraph 49 of The Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. And that, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Criterion a) of CS2 takes a similar approach in advising that housing development will not be permitted outside Limits to Development unless at any point there is a less than 5 year supply of deliverable housing sites. The clear thrust of these policies is that where there is a less than 5 year supply of housing land, less weight may be given to policies which in effect restrict housing land supply.
24. In view of my conclusion with regard to housing land supply in Harborough District limited weight can therefore be given to EV/3 insofar as it places an unqualified restriction on the provision of housing within the designated AoS. The Core Strategy however takes a more balanced approach. CS2 provides for housing development beyond development limits where a 5 year supply cannot be demonstrated. And it is acknowledged that development limits will need to be reviewed to accommodate new housing. Nevertheless the CS does not promote housing provision at the expense of planning's environmental role which is identified as one of the three dimensions of sustainable development in The Framework. The support which Policy CS15 gives to the principle of a separation area reflects strong community support for its retention, and the role it plays in protecting the identity of the villages and the natural and built environment. This up-to-date Policy, which carries forward the objectives of Policy EN/3, stands alongside those for the provision of housing.
25. A September 2011 report by G L Hearn commissioned by local authorities in Leicestershire indicates that the objectively assessed housing needs are higher than those set out in the CS. And the Strategic Housing Market Assessment (SHMA) 2008 shows a shortfall in the provision of affordable housing. Taken together with the less than 5 year supply of housing sites, the relative weight to be given to the provision of housing is undoubtedly considerable. It is not

however I conclude sufficient in this instance to outweigh the serious adverse effect the proposed developments would have on the perceived separation between Scraptoft and Thurnby/Bushby.

26. The impact of the appeal proposals differ from that at Sapcote considered recently at appeal. In that case the proposal would bring development no closer to Stoney Stanton, it was considered that there would be no suggestion that the settlements would visually conjoin and harm to the character and function of the AoS was judged to be moderate. Further Sapcote is within Blaby District where a Core Strategy has yet to be adopted and the relevant Policy for the AoS, though saved, forms part of a local plan adopted in 1999. No direct comparison can therefore be drawn between the Sapcote case and those before me.
27. The submitted unilateral undertakings would provide contributions in accordance with the requests made by HDC and the County Council. Neither these nor any other matters raised are sufficient however to outweigh the considerations that led to my conclusions on the main issues. For the reasons given, I conclude on balance therefore that the appeals should be dismissed.

Olivia Spencer

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Smyth of Counsel	Instructed by Verina Wenham Solicitor Harborough Borough Council
He called	
Mark Patterson BA(Hons) DipTP	Principal Planning Officer
Stephen Pointer BA(Hons) BTP MRTPI	Service Manager Strategic Planning
Adrian Eastwood MRTPI	Development Control Manager

FOR THE APPELLANT:

Mr P Taylor Solicitor	Instructed by Mr N Harris Pegasus Planning Group
He called	
Nigel Harris BA(Hons) DUPI	Pegasus Planning Group
Jeremy Peachey BSc MID CMLI	Pegasus Planning Group

FOR THURNBY & BUSHBY AND SCRAPTOFT PARISH COUNCILS:

Ms T Osmund-Smith of Counsel	Instructed by Brian Barber Associates
She called	
Nigel Ozier BA(Hons) MRTPI	Brian Barber Associates

FOR LEICESTERSHIRE COUNTY COUNCIL:

Mr J Prendergast	Principal Solicitor Leicestershire County Council
He called	
Andrew Tyrer BA(Hons) Susan Owen	Developer Contributions Officer Strategic Officer Education Service

INTERESTED PERSONS:

Michael Lambert MRTPI	Architectural Liaison Officer Leicestershire Police
Cllr S Galton	County and District Councillor
Mr N Renner	Local landowner
Mr C Griffiths	Local resident
Mrs J Lord	Tree Warden Thurnby & Bushby Parish Council
Mr J Rosenthal	Thurnby & Bushby Society
Mr P Coombs	Local resident
Mrs M A Wood	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Bundle of documents relating to housing land supply submitted by HDC
- 2 Appellant's comments on Scraptoft Hall viability

- 3 Supply of Deliverable Housing Sites 31 March 2012 submitted by HDC
- 4 GL Hearn report 2011 Executive summary
- 5 Secretary of State Decision and Inspector's report – Scraftoft Hall
- 6 Copy of s106 unilateral undertaking Appeal B submitted by the appellant
- 7 Photo – Google street view from Sedgefield Drive submitted by the Parishes
- 8 Statements from Mr C Griffiths, Mr P Coombs and Mr N Renner
- 9 Supplemental proof of evidence – Mrs S Owen
- 10 Email from Sue Timms Principal Ecologist submitted by Cllr Galton
- 11 Summary statement submitted by Mr M Lambert Leicestershire Police
- 12 Email correspondence - Sue Timms Principal Ecologist submitted by Mrs Lord
- 13 Email correspondence - Sue Timms Principal Ecologist submitted by the appellant
- 14 Bundle of documents – Open space and Community Infrastructure submitted by HDC
- 15 Community infrastructure statement submitted by Cllr Galton
- 16 Statement by Mr N Renner
- 17 Statement by Mr J Rosenthal
- 18 Statement by Mrs J Lord
- 19 Statement by Cllr Galton
- 20 Sites put forward in call for sites Scraftoft and Thurnby
- 21 Suggested conditions submitted by HDC
- 22 Certified copies of signed s106 undertakings Appeals A and B
- 23 Email correspondence re: De Montfort University site submitted by Cllr Galton
- 24 Summary proof of evidence – Mr J Peachey
- 25 HD Landscape Character Assessment 2007
- 26 Written submission re: Community Facilities contributions and Statement of Adrian Eastwood re: Highways submitted by HDC
- 27 Provision for Open Space, Sport & Recreation 2009
- 28 Roger Tym & Partners: Assessment of Local Community Provision and Developer Contribution
- 29 Statement of Common Ground
- 30 HDC Response to costs application