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## Appeal Decision

Inquiry opened on 10 July 2012 and was closed in writing on 25 July 2012  
Site visit made on 12 July 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**

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**Appeal Ref: APP/F2415/A/12/2171036**

**624 Uppingham Road, Thurnby, Leicester LE7 9QB**

- 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 James Coles (James Coles & Sons (Nurseries) Ltd) against the decision of Harborough District Council.
  - The application Ref 11/01642/OUT, dated 15 November 2011, was refused by notice dated 9 February 2012.
  - The development proposed is residential development for up to 175 dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The application is in outline with access only to be considered at this stage and all other matters reserved for later consideration.
3. At the Inquiry the appellant submitted a section 106 undertaking to provide contributions designed to mitigate the impact of the development on local infrastructure in accordance with the requests made by Harborough District Council (HDC) and the County Council.

### Main Issues

4. The appellant has agreed to a condition requiring a scheme for the provision 40 percent affordable housing. On this basis HDC has withdrawn the 2<sup>nd</sup> reason for refusal. I therefore consider the main issues are:
  - the effect of the proposed development on the character, appearance and function of the Green Wedge and
  - whether a 5 year supply of deliverable housing land can be demonstrated.

### Reasons

#### *Green Wedge*

5. The appeal site is a commercial nursery lying within an area north of the A47 Uppingham Road that forms the northern tip of the Thurnby/Leicester/Oadby Green Wedge. Policy EV/2 of the Harborough District Local Plan (LP) 2001 seeks to protect the open and undeveloped character of Green Wedges. The Policy is retained by the *Harborough District Local Development Framework*

*Core Strategy (CS)* adopted in November 2011. CS Policy CS8 seeks to secure a high quality, accessible and multifunctional green infrastructure network by ensuring that development does not compromise its integrity or potential value. Policies CS8 and CS15 define Green Wedges as largely undeveloped areas with the aim of i) preventing merging of settlements ii) guiding development form iii) providing access from urban areas into green spaces and iv) providing recreational opportunities. The CS notes that a detailed review of Green Wedge boundaries will take place as part of the Allocations DPD.

6. Nursery buildings, glass houses and polytunnels occupy the eastern part of the site which has frontages to Station Road and Uppingham Road, and which to the north is enclosed by a Co-op store and housing in Fern Close. Whilst undoubtedly different in character from the surrounding residential development, I consider this part of the site does not as a result have a predominantly open or undeveloped character.
7. The western part of the site is used for the storage of plants, which stand in pots on a hardcore surface. Whilst occupiers of adjacent houses have views across this space and clearly enjoy the quiet and peaceful atmosphere it provides, public views to this area are limited. Large houses built along the Uppingham Road frontage effectively sever this part of the site from the considerably larger and more verdant part of the Green Wedge to the south of the A47, and prevent any views of the site from this part of the Uppingham Road. There are no public rights of way across the site and the footpath running along part of the western boundary lies outside the boundary hedge and is enclosed by fencing on both sides. It is not surprising therefore that it is not heavily used.
8. However, approaching the site from the west along the A47 the site comes into view shortly after passing the Spencefield Lane junction. From here the triangular paddock adjoining the site is particularly prominent. The open western slope of the appeal site and the polytunnels on the crest of the hill are nevertheless evident through and above the hedgerow trees on the boundary. These two areas of land together provide a clearly apparent separation of Leicester City and Thurnby.
9. The site was assessed as Parcel 18 in the *Leicester PUA Landscape Character Assessment and Landscape Capacity Study(LCS) 2009*. This study concluded that the site had an overall landscape capacity range of medium high. The commentary notes that it would relate well to existing residential development and that any development would infill a site between existing residential properties. The earlier 2007 Landscape Character Assessment reached a similar conclusion. In landscape terms this is a sound observation. Prevention of coalescence is however just one of nine criteria in the LCS landscape sensitivity appraisal and as such has only a relatively small role in influencing the overall capacity score. It is noticeable in this respect that the adjoining paddock (parcel 19), considered by all parties to have a substantial role in the perceived separation between the settlements, is scored at only 3 points less with an overall capacity range of medium.
10. The illustrative layout demonstrates that a substantial number of houses could be accommodated on the eastern part of the site where they would sit within a residential context and replace existing nursery buildings. HDC has raised no objection to this element of the scheme. Housing, positioned as indicated on the illustrative layout further west on the site however would encroach on parts

of the site visible in easterly views from the A47. It would also bring housing substantially closer to properties lying within Leicester City in Wintersdale Road which, contrary to the observations of the Stepping Stones Project Manager, adjoins the appeal site to the west.

11. A Green Wedge Review (GWR) was published in December 2011. The document is intended to provide part of the evidence base for the review of detailed boundaries anticipated by the CS, and is based on a standardised set of assessment criteria related to the Green Wedge aims. The report makes a somewhat contradictory recommendation that the land occupied by Coles Nursery and the Uppingham Road houses is removed from the Green Wedge but that where residential development is permitted, a Green Wedge allocation across the western/north western part of the site is maintained to ensure separation between new development and properties on the edge of Leicester City. Given that the triangular paddock is not included with the appeal site in the hatched area shown in Figure 3 'for proposed removal from the Green Wedge', it cannot be assumed that this is the western part of the site referred to. No indication is however given as to the recommended extent of a maintained Green Wedge allocation.
12. The illustrative layout shows a corridor of open space along the western edge of the site opening to a slightly larger area in the north-western corner. As a strategy this broadly reflects the comments in the GWR. I note also that it would provide public access to the site and potentially a considerably more attractive route north from Uppingham Road than is available now along the public footpath. However the space indicated would be modest in scale providing in places as little as just some 50 metres separation between the proposed housing and that in Wintersdale Road. Such a limited area would not in my judgement be sufficient to provide a readily perceived sense of separation between new development and properties on the edge of Leicester City.
13. Notwithstanding benefits arising from the provision of public access to the site, I conclude for the reasons given that the proposed development would fail to prevent the merging of settlements contrary to the fundamental aim of both Policy EV/2 and the recently adopted Policies CS8 and CS15.

#### *Housing land supply*

14. One of the principal 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).
15. 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.
16. 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 asserts that a more

accurate figure is 3.85 years. HDC's calculation does not include sites on land east of Northampton Road, Market Harborough and land north of Scraftoft Campus. It is now understood that these sites together have the potential to provide up to some 221 units. If included, as Thurnby and Bushby Parish Council consider they should be, the submitted summary would suggest a supply of 5.22 years in the District. 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 both on the Northampton Road site where the developer is seeking to progress the s106 and on the Scraftoft Campus site where a developer has recently been appointed, the submitted evidence does not indicate that these 2 schemes are at present deliverable.

17. The summary includes 51 units on a former Kwik Save site in Northampton Road Market Harborough. Although owned by a development company for a number of years and having the benefit of planning permission for 43 units, the site has not been developed. The recent acquisition by another developer is encouraging however whilst an application has been received, planning permission for a higher density scheme of 51 units has not yet been granted and the build rates for 51 dwellings provided to HDC cannot in these uncertain circumstances be relied on.
18. Delivery of 100 of the 1000 units planned in the Market Harborough Strategic Development Area (SDA) in 2016/17 is also assumed. Here too planning permission has yet to be granted. Whilst preparation of a master plan for the SDA is in progress, without it 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.
19. The 72 dwelling windfall allowance is based on sites identified in the 2011 Strategic Housing Land Availability Assessment (SHLAA) and delivery on previously developed land in the last 3 years. However delivery in the last 3 years included substantial numbers of dwellings at Harborough Rubber and Scraftoft Campus. It is reasonable to expect that sites such as these and the larger sites identified in the SHLAA would be included in the forthcoming Allocations DPD. If allocated they would not be windfalls. This suggests the level of windfalls assumed in the summary may be over optimistic.
20. The appellant has expressed serious doubt that the Scraftoft Hall development is viable. However, the scheme has planning permission and in the absence of firm evidence to the contrary I accept the assertions of the site owner that development will commence within the next 5 years. Nevertheless for the reasons given and whilst acknowledging 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 on the main issues*

21. 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.

22. In view of my conclusion with regard to housing land supply in Harborough District limited weight can therefore be given to EV/2 insofar as it places an unqualified restriction on the provision of housing within the designated Green Wedge. 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 in The Framework as one of the three dimensions of sustainable development. The support which Policies CS8 and CS15 give to the principle of Green Wedges reflects strong community support for their retention, and the role they play in protecting the separate identities of the settlements. These up-to-date Policies, which carry forward the objectives of Policy EN/2, stand alongside those for the provision of housing.
23. 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 development would have in increasing the extent of merging between Leicester City and Thurnby.

#### *Other considerations*

24. The appellant has referred to a number of decisions where appeals have been allowed on sites lying within designated Green Wedges. I am not aware of the full planning details of these cases nevertheless I note that in reporting on the appeal on land at Kirby Road, Glenfield the Inspector considered that the appeal site appeared to offer very little in terms of preventing coalescence as it does not separate Glenfield from any other settlement. In the appeal decision relating to a site at St John's Enderby, it is noted that harm is caused by the erosion of the separation between Enderby St Johns and the urban area but that the remaining gap of some 690 metres would maintain a clear break between the settlements. And in the Hinckley Golf Club decision the Inspector notes that the development would not reduce the current minimum distance between Hinckley and the other two settlements. In these respects the schemes differ significantly from that before me.
25. The impact of this appeal proposal differs also 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 in that instance was judged to be moderate. Further Sapcote and Glenfield are within Blaby District where a Core Strategy has yet to be adopted and the relevant Policies, though saved, form part of a local plan adopted in 1999. No direct comparison can therefore be drawn between the appeals referred to and that before me.

26. 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.

**Overall conclusion**

27. For the reasons given, I conclude on balance that the appeal should be dismissed.

*Olivia Spencer*

INSPECTOR

Richborough Estates

## 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
Adrian Eastwood MRTPI	Development Control Manager

### FOR THE APPELLANT:

Mr H Richards of Counsel	Instructed by Landmark Planning Ltd
He called	
Mr I Reid DipTP MRTPI DipLD CMLI	Ian Reid Landscape Planning Ltd
Mr P Wilkinson BA MCD MA CPP MPIA FBIM FRTPi	Landmark Planning Ltd

### FOR THURNBY AND BUSHBY PARISH COUNCIL:

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
Mrs JM Preston	Local resident
Mr B Lewin	Local resident
Mrs W Stopforth	Local resident
Mrs B Patel	Local resident
Mrs C Hopkinson	Local resident
Mr R Betts	Local resident
Mrs S Patel	Local resident
Mr W Whitty	Local resident
Mr S Swinden	Resident of Newton Harcourt
Mrs S Bloy	Clerk to Thurnby and Bushby Parish Council
Cllr S Galton	County and District Councillor

**DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Statement of Mrs S Bloy
- 2 Statement of Mr W Whitty
- 3 Statement of Mrs C Hopkinson
- 4 Statement of Mrs B Patel
- 5 Statement of Mrs W Stopforth
- 6 Statement of Mrs S Patel
- 7 Statement of Mrs J Preston
- 8 Statement of Mr B Lewin
- 9 Statement of Mr I Harris
- 10 Agreed Statement of Common Ground
- 11 Section 106 unilateral undertaking submitted by the appellant
- 12 Sapcote appeal decision submitted by the appellant
- 13 Supply of Deliverable Housing Sites 31 March 2012 submitted by HDC
- 14 Statement of Mr R Betts
- 15 Bundle of documents relating to Scraftoft Hall submitted by Cllr Galton
- 16 Statement of Mr S Swinden
- 17 Google street view from Telford Way submitted by Mrs S Patel
- 18 Statement of Cllr S Galton
- 19 Email correspondence re: police contributions submitted by Mr Lambert
- 20 Statement submitted by Mr Lambert
- 21 Suggested conditions submitted by HDC