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## Appeal Decision

Hearing held on 23 September 2015

Site visit made on 23 September 2015

**by Y Wright BSc (Hons) DipTP MSc DMS MRTPI**

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

**Decision date: 24/11/2015**

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**Appeal Ref: APP/Y2810/W/15/3011449**

**Land off Welford Road, Northampton, NN6 6DF**

- 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 Mrs E Alker, Mrs C Knight, Mr N Barford, Mr K Upstone and Mr A Wanstall against the decision of Daventry District Council.
  - The application Ref DA/2014/0521, dated 3 June 2014, was refused by notice dated 29 January 2015.
  - The development proposed is residential development of up to 41 dwellings, estate road, open space and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 41 dwellings, estate road, open space and associated works at land off Welford Road, Northampton, NN6 6DF in accordance with the terms of the application, Ref DA/2014/0521, dated 3 June 2014 and the plans submitted with it, subject to the conditions set out in the attached schedule.

### Procedural Matter

2. The application was submitted in outline with all matters except for access reserved for future determination. I have considered the appeal on this basis, although I note the illustrative housing layout provided.

### Main Issues

3. The main issues raised by the proposal are:
  - The effect on the character and appearance of the surrounding area; and
  - Whether it constitutes development for the Northampton Related Development Area.

### Reasons

#### *Character and appearance*

4. The appeal site is currently an open paddock used for grazing horses, with stables at the northern end, located in the district of Daventry within the countryside and a designated green wedge. The site directly abuts the existing built-up area of Northampton to the south and the Brampton Valley Way (BVW) leisure route runs along the western boundary. Open countryside including a

- designated Special Landscape Area lies beyond to the west. A Public Right of Way (PRoW) crosses the site from Welford Road to the BVW.
5. The Council confirmed at the Hearing that its concerns relate specifically to the visual and landscape impact of the proposal on the immediate locality.
  6. On my site visit I saw that the appeal site is both physically and visually separated from the wider open landscape and Special Landscape Area beyond to the west, by the distinct linear BVW which runs on an embankment at a raised level above the western boundary of the site. In addition the appeal site sits below the level of Welford Road, slopes down towards the BVW and is partially screened from the road by a combination of mature trees and hedgerows along the boundary of the site, limiting views into it and beyond.
  7. The Council states that the BVW is a well used leisure route that forms part of the national cycle route. Approaching from the north along this route, the appeal site is screened by existing vegetation, whilst from the south houses screen the views. Along most of the western boundary the vegetation is low in height and the site is clearly visible from the BVW, but I consider the development would be seen within the context of the existing urban development which forms a prominent part of the views from the north and west.
  8. Due to the lower land level, the opportunity for substantial additional new landscaping along the site boundaries and the provision of a significant area of open space to the north-west of the site, as proposed on the illustrative layout, I consider the development would not be unduly intrusive within the locality. These matters would be considered further at the reserved matters stage and although the layout plan is illustrative only, it does demonstrate that an acceptable detailed scheme could be advanced with the inclusion of substantial landscaping. I therefore have given the layout plan some weight. I can see from this plan that in the north-west corner of the site the PRoW would be likely to require diverting. This, together with the more urban views, would have an impact on users of the path, but I consider that this would not result in material harm.
  9. Nonetheless, I acknowledge that the proposal would introduce residential development onto the site and reduce the existing open rural character. This would be contrary to the Daventry District Local Plan (2007) (LP) Policy GN1 which restricts development in the countryside and promotes development that protects and enhances the environment, and LP Policy HS24 which limits residential development within the open countryside. However the appellants have drawn my attention to two recent appeal decisions<sup>1</sup> for development within the district and the Inspectors' findings and conclusions on these policies. Whilst each appeal must be determined on its own individual merits I nevertheless have considered these decisions.
  10. I note that the previous Inspectors have concluded that whilst elements of LP policies GN1 and HS24 accord with the National Planning Policy Framework (the Framework), such as recognising countryside character, they nonetheless were adopted prior to the Framework and are not generally consistent with the overall presumption in favour of sustainable development through planned growth. I have no reason to disagree with previous Inspectors conclusions on

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<sup>1</sup> APP/Y2810/A/14/2228921 and APP/Y2810/A/14/2225722

these policies and I therefore accord Policies GN1 and HS24 reduced weight in this appeal.

11. In addition, immediately to the east of the site on the opposite side of Welford Road, are open fields allocated under Policy N8 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014 (JCS), as the Northampton North of Whitehills Sustainable Urban Extension (NWSUE) which includes the delivery of around 1,000 new homes. This large development would add a scale of building within the landscape that would be much greater than the 41 dwellings proposed on this adjoining site, resulting in a more substantially urbanised area. The Council drew my attention to the NWSUE masterplan, which proposes an area of open space on land opposite the appeal site, but this would not reduce the overall urbanising effect of the NWSUE development. I also note that the plan is indicative and its design and layout could change significantly as the site is developed.
12. I also note that the Northampton North West Bypass (the bypass), which constitutes a key infrastructure project within the JCS, is proposed to be constructed to the west and north of the appeal site to serve the three sustainable urban extensions (SUEs) that are to be constructed in the area. The bypass proposes to link into the A5199 (Welford Road) via a roundabout junction around 500m to the north of the appeal site. The draft route would travel through the open countryside, green wedge and Special Landscape Area to the west of the appeal site on a raised embankment, due to the area being within the River Nene floodplain. This would introduce an urban feature into the existing open river valley. Although this road does not currently have planning permission, the Council confirmed at the Hearing that consultation over a final alignment is proposed to commence shortly.
13. Policy EN10 green wedges do not preclude development, but proposals should meet certain criteria. The policy states that the purpose of the green wedge is to act as a buffer between built up areas to prevent their coalescence and as a setting for established landscape features. The Council also states that the green wedge affords some development protection to open areas bordering the urban fringe.
14. In considering the two criteria (A and B) within LP Policy EN10 referred to by the Council, I do not consider that the development would significantly reduce the physical separation between Northampton and settlements within Daventry, due to its containment as a separate parcel of land, its modest size, its location adjacent to a large urban area and its proximity to a designated SUE. As the site is segregated from the surrounding landscape it would also not be materially intrusive or visually detrimental to the wider open landscape to the west including the Special Landscape Area.
15. As set out earlier, the development would reduce the openness of the site. However taking into account the specific context of the site including its topography, the BVW raised embankment, the significant proposed landscaping, boundary screening and area of open space within the site, and the adjacent existing and future housing development, I consider that any harm from the reduction in this openness would be minimal. This has been informed by the illustrative layout plan to which I have given some weight. To my mind this would not be detrimental to the predominantly open and green nature of the remaining green wedge in relation to its designated purpose.

16. The proposal would be contrary to LP policies GN1 and HS24, but, for the reasons given earlier, I give this limited weight. Overall I conclude that it would not be substantially visually intrusive or otherwise harmful to the landscape character of the area, nor would it undermine the purposes or effectiveness of the remaining green wedge. The proposal would therefore not be contrary to LP Policy EN10.
17. The Council has also referred to LP Policy EN1 within its statement of case which sets criteria for development within the Special landscape Area, but as the site is not within it, this policy does not apply.

*Whether the proposal constitutes development for Northampton*

18. There was considerable discussion at the Hearing about whether the proposal should be viewed as relating to meeting the growth needs of Northampton, specifically the Northampton Related Development Area (NRDA), rather than the needs of the district of Daventry, due to the site's location immediately adjacent to the urban area of Northampton.
19. The JCS clearly states that Northampton's needs cannot be met within the borough boundary of Northampton. As such, adjoining areas in the districts of Daventry and South Northamptonshire have been allocated as SUEs within the JCS and are included within the NRDA boundary (doc 2). The Council confirmed at the hearing that the NRDA boundary is the same as the Northampton principal urban area boundary. Both parties also agree that although the site is not within the NRDA boundary it directly adjoins it.
20. Policy S1 of the JCS sets out the distribution of development within the plan area. This seeks, amongst other things, development that is concentrated primarily in and adjoining the principal urban area of Northampton. JCS Policy S4 sets out the scale of housing to be provided within the NRDA. Whilst this policy states that development will be met primarily within Northampton's existing urban area and at the SUEs within the NRDA boundary, additional development to meet Northampton's needs will be supported, but only if it meets the vision, objectives and policies of the JCS.
21. The Council has drawn my attention to the Secretary of State's decision letter dated 27 August 2015 in relation to APP/Y2810/W/14/3000977 and recent appeal decisions<sup>2</sup>, which conclude that the Council is able to demonstrate a 5 year housing land supply. The appellants do not dispute this and based on the evidence before me I have no reason to conclude otherwise.
22. The Council stated at the hearing that development outside the NRDA boundary was not required because all of Northampton's needs would be met within the defined NRDA boundary. However except for the SUEs, which are allocated and set out within the JCS, I do not have evidence to demonstrate that sufficient other sites have been identified to meet the NRDA's housing needs. In addition it is agreed between the parties that Northampton Borough Council is not able to demonstrate a 5 year supply of deliverable housing sites within the NRDA. Instead there is a 4.87 year supply of housing land with a shortfall of 223 dwellings<sup>3</sup>. The appellants point to the delays<sup>3</sup> in bringing some of the

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<sup>2</sup> APP/Y2810/A/14/2228921 and APP/Y2810/A/14/2225722

<sup>3</sup> Appellants Statement of Case Appendix 5: Northampton Borough Council - Northampton Related Development Area Five-Year Housing Land Supply Assessment - April 2014

- substantial SUEs forward as part of the reason as to why there is a shortfall of housing land.
23. Consequently in accordance with paragraphs 49 and 14 of the National Planning Policy Framework (the Framework), the relevant policies for the supply of housing are not considered to be up-to-date and the presumption in favour of sustainable development applies. However I recognise that this would apply to the area covered by the NRDA, not the rest of Daventry district.
  24. The overall vision and objectives of the JCS are to focus development within and around Northampton and the key towns within West Northamptonshire. The site directly adjoins the NRDA, with existing houses to the south and the NWSUE to the east. Furthermore the bypass is proposed to be constructed to the west and north of the appeal site.
  25. Consequently taking the above into account I conclude that the proposal would constitute development for the NRDA and would therefore be in compliance with JCS Policies S1 and S4. Based on the evidence before me, the proposal would be deliverable within 5 years and would provide a moderate contribution of up to 41 dwellings towards the shortfall in the 5 year supply of housing for the NRDA, which weighs significantly in support of the appeal.
  26. The development would not be in conflict with JCS Policy R1 which sets out the spatial strategy for rural areas, as the appeal site would be development for the NRDA. On this basis it would also accord with JCS Policy S10 which sets out sustainable development principles.

#### *Other Matters*

27. The appellants submitted a signed unilateral undertaking (UU) at the Hearing (doc 1). I was also informed that on 1 September 2015 the Council adopted a Community Infrastructure Levy (CIL). The Council confirmed at the Hearing that the UU only contains elements that are not to be funded through the CIL. The UU includes the provision of 35% affordable housing on site and contributions towards the provision of primary education, libraries, bus stop infrastructure, the enhancement of public transport and primary healthcare. The UU sets out the specific details of what the different contributions would provide.
28. At the Hearing, the Council stated that if the housing was to be provided to meet Daventry's needs then the provision should be 40% rather than 35% which reflects Northampton Borough Council's policy. As I have concluded that the proposal would constitute development for Northampton I am satisfied that the provision of 35% affordable housing on site would be appropriate. I am also satisfied that the need to submit and gain written Council approval for an Affordable Housing Scheme prior to commencement of the development would ensure that adequate control over aspects of the affordable housing was assured.
29. I therefore conclude that the obligations set out within the UU are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development proposed, which satisfies the tests in the National Planning Policy Framework and Regulation 122 of the Community Infrastructure Levy 2010.

30. The Council has drawn my attention to an objection letter dated 4 September 2015 from Northampton Borough Council regarding a separate but identical duplicate scheme for the appeal site. I note that Northampton Borough Council in its 14 September 2014 consultation response does not object to this proposal and instead views the development as being related to the growth of Northampton. Although this appears to be a material change in the Borough Council's position, I note that the recent objection is on the grounds that the proposal would be developed in advance of adequate highway infrastructure being provided to serve the north west of Northampton. However no objections have been raised by the Highway Authority to the proposal on highway safety grounds.
31. In relation to concerns on flooding, wildlife, and the capacity of local infrastructure such as schools and doctors surgeries, the Council does not object on these grounds and I have no substantive evidence to indicate that the proposal would cause significant harm in these respects.

### **Conclusion and the Planning Balance**

32. Whilst it is undisputed that the Council is able to demonstrate a 5 year deliverable housing land supply, both parties also agree that this is not the case for the NRDA. The location of the site adjoining the NRDA, the contribution that up to 41 dwellings, including 35% affordable, would make to the housing land supply and its accordance with JCS policies S1, S4 and R1 and S10 are factors which weigh significantly in favour of the appeal.
33. In addition the site is within a sustainable location, adjacent to existing services and facilities and would provide economic benefits including employment opportunities during construction. The site is within the countryside and outside a settlement boundary and so the proposal would not be in accordance with LP Policies GN1 and HS24. However due to the limited degree of consistency these policies have with the Framework, this has only limited weight. In relation to the green wedge I have concluded that there would not be material harm and I do not find a conflict with LP Policy EN10.
34. As such the proposal would be sustainable development and the presumption in favour of its development applies. For the reasons given above I therefore conclude that the appeal should be allowed.

### **Conditions**

35. I have considered the conditions suggested by the Council in light of the advice given in the Planning Practice Guidance (PPG). As such I do not impose all of them and amend others in the interests of precision and enforceability. I am satisfied that the conditions set out in my decision meet the tests within the PPG.
36. Conditions on setting reasonable time limits and the provision of details on reserved matters are necessary as the application made is for outline permission. I attach a condition specifying the approved plans for the avoidance of doubt and in the interests of proper planning. I also attach a condition specifying the maximum number of dwellings on the site for the avoidance of doubt, but do not include reference to the illustrative plan as such details would be included within condition (1).

37. I impose a condition to ensure there is safe access to and from the site and highway safety is maintained. The details of the access are contained within the Transport Statement. I attach conditions to minimise the risk of flooding, safeguard against contamination and ensure the site is adequately drained so that the living conditions for future occupiers are protected. However I have not included the details suggested by the Council within the contamination condition as these can be provided through the provision of an agreed methodology. A condition requiring a Code of Construction Practice is necessary to safeguard the living conditions of existing neighbours during the construction period.
38. I am not persuaded that it is necessary to impose a condition requiring an archaeological investigation is carried out prior to development commencing, as a field evaluation has already been carried out to the satisfaction of the Northamptonshire County Council. I therefore do not attach such a condition. The suggested fire hydrant condition is not necessary since it can be achieved through the Council's CIL.

*Y. Wright*

INSPECTOR

#### **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 thereafter be carried out in accordance with the approved details.
- 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: 1:1250 scale site location plan and 14078\_TOPO\_01.
- 5) There shall be no more than 41 dwellings erected on the site.
- 6) Prior to occupation of the dwellings, the development hereby approved shall be implemented in accordance with the revised Transport Statement undertaken by Abington Consulting Engineers Limited and the details and parameters contained therein.
- 7) Prior to occupation of the dwellings, the development hereby permitted shall be implemented in accordance with the revised Flood Risk Statement undertaken by JPP Consulting (dated December 2014, Rev E) and the letter from JPP Consulting (dated 22 December 2014, ref: S7088PM/MA/LG/001).

- 8) No development shall take place until details of the proposed foul and surface water drainage for the site, have been approved in writing by the local planning authority. No dwelling shall be occupied until the works have been carried out in accordance with the approved scheme.
- 9) No development shall take place until a comprehensive contaminated land investigation has been carried out in accordance with a methodology which has been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority prior to any development commencing. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development commences.
- 10) No development shall take place until a Code of Construction Practice (CoCP), including the proposed hours of construction and a contractor's working method statement, has been submitted to and approved in writing by the local planning authority. All construction works and activities shall be carried out in accordance with the approved CoCP.

## **APPEARANCES**

### FOR THE APPELLANTS:

Mr L Wilbraham      Wilbraham Associates Ltd (Agent)  
Mr S Choung          Counsel, No 5 Chambers

### FOR THE LOCAL PLANNING AUTHORITY:

Mr B Ham             Senior Planning Officer, Daventry District Council  
Mr R Wood            Local Strategy Manager, Daventry District Council

### INTERESTED PARTIES:

Mr J Clarke           Boughton Parish Council  
Mr T Jones            Daventry District Council  
Mr S Carvel           Gladman Developments

### DOCUMENTS SUBMITTED AT THE HEARING:

- 1      Signed copy of unilateral undertaking dated 16 September 2015
- 2      Extract of the JCS showing paragraph 5.34 which defines the Northampton Related Development Area



- 3 Extract of JCS Policy N1 – the Regeneration of Northampton
- 4 Copy of emails regarding the unilateral undertaking
- 5 Copy of Infrastructure and Developer Contributions SPD 2013

Richborough Estates