



**Appeal Against the Refusal of Planning Permission for the following application:**

**Land south of Witney Road, Long Hanborough**

**Erection of up to 169 dwellings; with new Doctors' Surgery, to be up to 740 sq metres in size, with around 27 car parking spaces; with access from the Witney Road, plus open space, and associated works**

**Applicant: Pye Homes Ltd**

**Statement of Case on behalf of the Appellant**

**June 2015**

**Local Authority**

West Oxfordshire District Council

**Planning Reference**

**14/1234/P/OP**

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## STATEMENT OF CASE

### Land south of Witney Road, Long Hanborough

**Application Description:** Erection of up to 169 dwellings; with new Doctors' Surgery, to be up to 740 sq metres in size, with around 27 car parking spaces; with access from the Witney Road, plus open space, and associated works

#### **1. INTRODUCTION**

- 1.1. West Waddy ADP has been instructed to appeal against the refusal by West Oxfordshire District Council (WODC) of the above application on the 6 March 2015.
- 1.2. This document outlines the appellants case which will be presented to the Inquiry, with supporting evidence.

#### **2. THE APPLICATION THE SUBJECT OF THE APPEAL**

- 2.1. The application was registered by West Oxfordshire district Council on the 21st August 2014 and given the application nos 14/1234/P/OP. The application plans submitted to the Council consisted of a Site Location Plan (Drawing nos: 13136 (B) 010 Rev A); an Indicative Site Layout (Drawing nos: 13136 (B) 120); Indicative Site Tenure Plan (Drawing nos: 13136 (B) 110) & Proposed Site Access plan (Drawing Nos 15290-04).
- 2.2. Additional information and reports were submitted with the application comprising: Planning Statement; Design & Access Statement; Transport Assessment; Travel Plan; Archaeological Desk Based Assessment; Landscape & Visual Impact Assessment; Flood Risk Assessment & Drainage Statement; Arboricultural Report; Statement of Community Engagement; Ground Conditions Phase 1 Desk Study report; and Ecological Report.
- 2.3. Subsequently the scheme was revised to include a doctors' surgery to address representations received from the Long Hanborough Surgery that the proposed development would result in inadequate capacity at the existing surgery to serve the number of patients that would be reliant on this practice. A revised transport addendum and hedge assessment plans were submitted relating to these changes.
- 2.4. The application was presented to the Upland Area Committee on 2nd March 2015. The officer's report recommended that the application be refused due to the scale of the development; failure to create a locally distinctive development; coalescence of the settlements of Long Hanborough and Freeland; the precedent for further encroachment into the open countryside around the village and that the proposed development

represents a disproportionate addition that will damage the social and environmental character and sustainability of the village and urbanise the road between the settlements of Long Hanborough and Freeland with inappropriate ribbon development.

2.5. The Upland Area Committee resolved to refuse the application for these reasons, but also added ‘the failure to address the education and healthcare implications for the village.’

2.6. The decision notice was issued on 6th March 2015, which gives the reasons for refusal as:

*‘By reason of the scale of development both in its own right and in combination with other planned and approved schemes, the failure to address the education and healthcare implications for the village, the failure to take the opportunity to create a locally distinctive development, the coalescence of the settlements of Long Hanborough and Freeland and the precedent for further encroachment into the open countryside around the village the proposed development represents a disproportionate addition that will damage the social and environmental character and sustainability of the village and urbanise the road between the settlements of Long Hanborough and Freeland with inappropriate ribbon development. As such the proposals are contrary to policies BE2, BE4 (a) and H7 of the adopted plan, H2 and OS1 of the emerging plan and paragraphs 14, 56, 64 and 66 of the NPPF. These are considered to represent significant and demonstrable harms that substantially outweigh the benefits of the scheme.’*

2.7. The appellant will describe in evidence the evolution of the proposed development, including consultation with the public and statutory consultees; and engagement with officers in a positive approach to address technical planning issues raised by consultees.

#### **Site Description & Its Surroundings**

2.8. The Appeal Site comprises land to the south of Witney Road (A4095), covering an area of 7.9 hectares over two fields.

2.9. The boundary to the site is defined by the gardens of residential properties to the east, Witney Road to the north, which is separated from the site by a hedgerow, and a belt of mature trees to the south. The western boundary is currently undefined by existing features apart from at its northern extent where it is marked by an existing dwelling house. The Site comprises predominantly arable land with an area of semi-improved grassland to the east (formerly used as a paddock).

2.10. The residential development to the east of the appeal site is a mixture of housing of differing ages. The relatively small development at Slatters Close to the northeast was constructed in the 2000s. While the larger developments to the east and southeast, Hurdeswell and Marlborough Close respectively appear to

date from the 1970s/1980s. Number 39 Witney Road beyond the eastern boundary and the Old Police House which is on Witney Road beyond the western boundary are older single dwellings but are not subject to any form of local or statutory heritage listing.

- 2.11. The site itself contains a hedgerow that forms a curve in the northeast corner of the site separating the two existing fields. The site is located on the western boundary of the village of Long Hanborough, which lies around 10 miles north west of Oxford and 5 miles north east of Witney. The village of Long Hanborough itself contains the following facilities primary school, petrol station, churches, post office, two Co-op food stores, doctors' surgery, dental practice; playing fields; nursery, beauty salon; two public houses; fish and chip shop; substantial employment estate (circa 10.72 hectares) and train station.
- 2.12. The site is within 400m of two bus stops which are served by the 11 and 242 buses which offer hourly services Monday to Saturday to key local centres including Oxford, Burford, Witney and Woodstock. Long Hanborough train station offers direct services to key centres including Oxford, London Paddington and Worcester. There is a direct footpath and cycleway to the train station where there is cycle parking provision.
- 2.13. The Cotswolds Area of Outstanding Natural Beauty (AONB) extends along the Evenlode Valley to the north of Long Hanborough. However, the development site is located approximately 480m south of the boundary of the AONB at its nearest point.
- 2.14. The site does not contain any Public Rights of Way.
- 2.15. The appellant will describe in detail the appeal site and its surroundings and produce a location plan indicating the location of the site and its context in advance of the Inquiry.

### **3. PLANNING HISTORY**

- 3.1. There have been no previous applications for this site.

### **4. PLANNING POLICY**

#### **The Development Plan**

- 4.1. The Development Plan for the appeal site consists of the 'saved' policies of the West Oxfordshire Local Plan 2011, which was adopted in 2006. Relevant policies include, but are not limited to, those referred to by the council in its refusal reason, namely BE2 – General Development Standards; BE4 (a) - Open Space within and adjoining settlements; and H7 – Service Centres. It is the appellant's view that the West Oxfordshire Local Plan 2011 is out of date, as it was only intended to cover the period to 2011 and pre-

dated the issue of the National Planning Policy Framework (NPPF) in March 2012 and evidence in relation to this matter will be presented to the Inquiry.

## **Other Material Considerations**

### **Emerging Local Plan**

- 4.2. The Council has also produced a proposed submission Local Plan 2031, which is expected to be submitted to the Secretary of State in June 2015. Relevant policies include, but are not limited to, those referred to by the council in its refusal reason, namely H2 – Delivery of New Homes and OS1 – Presumption in Favour of Sustainable Development. These policies have not yet been considered at Examination and therefore do not have the full weight of adopted policies as set out in paragraph 216 of the NPPF.

### **National Planning Policy Framework (NPPF) & Planning Practice Guidance (PPG)**

- 4.3. The appellant will also refer to paragraphs in the NPPF (March 2012), such as 6 to 16 on sustainable development; 47 and 49 on the supply of housing; 56 to 68 on requiring good design and other paragraphs that are relevant to the appeal. Reference will also be made to relevant paragraphs in the PPG.

### **Oxford and Oxfordshire City Deal**

- 4.4. Reference will also be made to the Oxford and Oxfordshire City Deal. The City Deal is part of the Government's initiative to devolve powers locally in exchange for local authorities taking on responsibility for creating economic growth in their areas and providing much needed housing for the employees resulting from the economic growth. The Oxford and Oxfordshire City Deal aims to promote growth within the improvement area by maximising the existing educational and science assets in order to promote Oxford and Oxfordshire's status as a prosperous economic area.
- 4.5. The proposed development at Long Hanborough is very close to the Oxford City Deal improvement area – named 'The Knowledge Spine', which stretches from Science Vale, near Didcot to Bicester, with Oxford at its heart, as shown on the plan attached at Appendix A. The City Deal, is a cooperative venture, which will be delivered through the Oxford Local Enterprise Partnership (LEP) bringing together other bodies and institutions, including Oxford City Council, Cherwell District Council, South Oxfordshire District Council, Vale of the White Horse District Council, West Oxfordshire District Council, Oxfordshire County Council, Oxford Brookes University and Oxford University.

### **Strategic Housing Market Assessment (SHMA) & Strategic Housing Land Availability Assessment (SHLAA)**

- 4.6. The appellant will also refer to the Oxfordshire Strategic Housing Market Assessment and Strategic Housing Land Availability Assessment.

### **Government Ministerial Statements/Planning Appeal Decisions**

- 4.7. The appellant will refer to recent Government Statements and planning appeals as they relate to the provision of housing as part of the economic recovery of the Country and as part of the Government's desire to increase the supply of housing and deliver this much needed commodity.

## **5. CASE FOR THE APPELLANT**

- 5.1. The following sets out the Statement of Case that the appellant proposes to put to the Inquiry. The Statement of Case focuses on the refusal reason given on the decision notice. The appellant reserves the right to add to the Statement of Case should other lines of objection emerge or are put forward by other parties following submission of the appeal.

### **The Council's Reasons for Refusal**

- 5.2. Evidence will be given which demonstrates that the Council's refusal reasons are not justified and that the mitigation measures proposed as part of the application the subject of the appeal will ensure that there will not be a significant adverse impact, but that there will be significant economic, social and environmental benefits. The response to the various constituent parts of the one refusal reason given on the decision notice are outlined below.

#### **Infrastructure Provision: Doctors' Surgery & Replacement School Playing Field**

- 5.3. The appellant will submit that the provision of a replacement doctors' surgery as part of the scheme adequately addresses the component part of the Council's stated reason for refusal pertaining to the appeal proposals impact on the healthcare provision of the village. The appellant is currently negotiating with the Long Hanborough Surgery on the terms of an agreement relating to its provision and anticipates that these negotiations will have been completed by the time of the inquiry. The doctors' surgery does not currently meet the size and space standards for primary care medical premises set out by NHS England and no other sites for a surgery have been identified in Long Hanborough. The application site therefore represents the only identified solution to providing a primary medical service of an adequate standard to serve Long Hanborough and its hinterland.
- 5.4. Similarly it will be argued that the provision of a replacement playing field proposed on land south of Riely Close to replace the playing field provision lost at Hanborough Manor C of E Primary School due to the classroom extensions required to increase the capacity of the school to take extra pupils, would adequately address the constituent part of the Council's Reason for Refusal pertaining to the education implications of the appeal proposals on Long Hanborough. (An application for this replacement playing field will be submitted to the Council shortly.)

### **Landscape/Environmental Issues**

#### **Locally Distinctive Development**

- 5.5. The appellant will submit that contrary to the Council's claim, the development proposed would constitute a locally distinctive development. In this respect the application is an outline application, with only access not reserved, so the masterplan submitted with the application is only for illustrative purposes and revisions are being undertaken to the masterplan, which will be submitted with this appeal, which will improve the layout design and demonstrate one other way the site can be developed. Locally distinctive development will be achieved, as set out on the Landscape Strategy & Mitigation Plan (that forms Figure 16 in the LVIA) through housing styles reflecting the local character together with housing that matches the scale, layout and density of housing bordering the site; the retention and enhancement of existing landscape features such as the hedge that runs through the site and the perimeter planting; together with extensive additional planting both within and adjoining the proposed development.

#### **Coalescence of Settlements**

- 5.6. With regard to the issue of the coalescence of the settlements of Long Hanborough and Freeland, the appellant will submit that the distinctive character of both settlements will be retained through the retention of a substantial buffer 250 metres wide; the location of the development below a ridge between Long Hanborough and Freeland and the provision of an extensive landscape belt on the western boundary of the proposed development, which will ensure that there is neither physical or visual coalescence. The proposal therefore fully accords with emerging policy H2, which states that 'all residential development will be expected to...avoid the coalescence and loss of identity of separate settlements.'

#### **Encroachment into the open countryside**

- 5.7. On the issue of the proposal creating a precedent for further encroachment into the open countryside, the appellant will argue that this also applies to the application by Corpus Christi College that was recently granted approval by the Council on a field east of Church Road, Long Hanborough, and other greenfield sites adjoining other settlements. Indeed the Council's emerging Local Plan policy H2 allows for development on the edge of settlements. As the site does not have significant environmental constraints and is located close to a good range of services and would be screened by existing and proposed planting it would not create a precedent for other sites where development would cause unacceptable landscape, biodiversity, heritage impacts or the location is unsustainable because the site is located well away from services and facilities.
- 5.8. The Council has cited 'saved' policy BE4 a) in its reasons for refusal, which relates to open space within and adjoining settlements and states that: 'Proposals for development within or adjoining the built-up area should not result in the loss or erosion of: a) an open area which makes an important contribution to: i. the distinctiveness of a settlement; and/or ii. The visual amenity or character of the locality.' The Landscape and Visual Impact Assessment that was submitted with the application assessed the site as being an 'ordinary landscape,' which is defined as being 'areas containing some features of landscape value or a

distinguishable landscape structure, but lacking a coherent and aesthetically pleasing composition.’ (Tim Lynch Associates LVIA para 3.8) The appellant will therefore submit that the land is not an open area of particular value so as to merit its protection, and the scheme will ensure that the development sits well within the local landscape, including the provision of an extensive landscape structure and substantial areas of public open space, which will be of substantial benefit to existing and new residents given that there is no authorised access to the site at present.

### **The Scale of the Proposed Extension to Long Hanborough**

- 5.9. As to the claim that the development represents a disproportionate addition that will damage the social and environmental character and sustainability of the village, the appellant will argue that the emerging proposed submission Local Plan 2031 has identified Long Hanborough as a rural service centre and officers have described it as ‘one of the larger and more sustainable settlements in the District,’ in paragraph 7.5 of their report on the application by Corpus Christi College relating to land east of Church Road, Long Hanborough. (report to Uplands Area committee on 2.3.15). Indeed the Council itself granted planning permission for a development of 160 dwellings at New Road, Bampton (application nos 13/1465/P/OP), which the 2011 Census indicates has a population of 2,564, compared to 2,630 in Long Hanborough. Although a Rural Service Centre, Bampton has no railway station and does not have a large employment area like Long Hanborough and is therefore a less sustainable settlement. It is therefore inconsistent for the council to argue that an application for up to 169 dwellings at Long Hanborough would result in a disproportionate addition to the settlement. Other developments in Long Hanborough have consisted of small scale infill sites, apart from an application by Corpus Christi College for 50 dwellings in Church Road, Long Hanborough (application nos 14/1102/P/OP) which the Uplands Area Planning Sub-Committee resolved to approve on the 27th April 2015 subject to the applicant entering into a legal agreement. The appellant will therefore submit that the proposal development will not result in a significant cumulative impact in association with other application proposals or recent developments.
- 5.10. Rather than damage the social character of the village evidence will be presented that it will improve its social character by providing much needed market and affordable housing; supporting existing services, potentially securing their long term viability; and provide new improved services, such as the doctors’ surgery and replacement playing field.

### **Potential urbanisation of the Witney Road**

- 5.11. With regard to the allegation that the proposal would urbanise the road with inappropriate ribbon development, the appellant will argue that the development would have a relatively narrow frontage to Witney Road of 180 metres, compared with a site depth of approximately 350 metres. This together with the retention of the existing hedgerow apart from where the access will be created, and additional tree planting, will ensure that the development will not urbanise the road with ribbon development.

**Conclusion to Landscape Environmental Issues**

- 5.12. The appellant will submit that as identified in the Landscape and Visual impact Assessment submitted with the application, the site falls within the category of an “Ordinary Landscape” and therefore does not have any distinctive landscape quality, nor is it subject to any landscape designations and for these reasons development would not have a significant adverse impact on the landscape and that the development is of a suitable scale for its context.
- 5.13. Evidence will show that none of the reasons for refusal are applicable to this site for the reasons outlined above, with the potential landscape impact being mitigated through creating a strong landscape structure and additional planting. There would therefore be no significant detrimental impact.

**Sustainable Development & Good Design**

- 5.14. The Council makes reference in the refusal reasons to paragraphs 14, 56, 64, and 66 from the National Planning Policy Framework, which relate to the principle of sustainable development; good design and taking account of the views of the community. Similarly, reference is made to ‘saved’ Local Plan policy BE2 which relates to General Development Standards and emerging Local Plan policy OS1, which relates to the presumption in favour of sustainable development.
- 5.15. In the evidence presented the appellant will demonstrate how the development will constitute sustainable development that will have a significant economic; social and environmental role and therefore constitute sustainable development according to the terms set out in paragraphs 6- 10 of the NPPF and that the benefits will significantly outweigh any adverse impacts. The proposal also accords with many of the core planning principles set out in paragraph 17 of the NPPF. For these reasons the appellant will argue that the proposed development does constitute sustainable development.
- 5.16. Key benefits from the development include the provision of much needed market and affordable housing as demonstrated in the Oxfordshire Strategic Housing Market Assessment; the social/economic benefits that the housing will provide in terms of supporting local businesses and the bus service through the village; the provision of a new enlarged doctors’ surgery to serve the local community; extensive public open space provision; a new enlarged playing field for Long Hanborough Primary School, and ecological enhancements.
- 5.17. Evidence will be presented to demonstrate that the proposal represents good design that accords with the principles of good design outlined in the NPPF and planning practice guidance. This will be achieved by a visually attractive layout and buildings, including a relatively low density to reflect the sites location on the edge of the settlement; an attractive well connected permeable street network; a network of greenspaces and through integrating the development with its surroundings. The development will also not have an

adverse impact on the amenities of neighbouring residences and will have a comfortable relationship with neighbouring development through, for example, the creation of landscape buffers

- 5.18. Much of West Oxfordshire is also subject to environmental constraints, with approximately a third falling within the Cotswolds ANOB. Other constraints include part of the Oxford Green Belt in the south east of the District; areas of high flood risk and ecological and heritage designations. A substantial proportion of the district is therefore subject to environmental constraints, but none of these apply to the appeal site.
- 5.19. Regard has also been given to the views of the community in ensuring that there would not be a detrimental impact on the amenity of neighbouring properties and that local concerns about the capacity of the school and doctors' surgery are addressed by providing a replacement surgery as part of the development proposal and a replacement playing field for the school.
- 5.20. The appellant will provide evidence demonstrating that there are considerable benefits associated with the proposed development and no significant adverse impacts, which would outweigh the benefits and so the development would constitute sustainable development in accordance with paragraph 14 of the NPPF. This will be considered in the context of the planning balance relating to the appeal proposal.

#### **Other Positive Reasons for the Proposed Development**

- 5.21. In addition to the arguments outlined above in response to the Council's reasons for refusal, evidence will also be presented to the examination in relation to the following positive benefits arising from the development in relation to the following matters, including conforming with emerging policy.

#### **Long Hanborough's Role as a Rural Service Centre**

- 5.22. In both the adopted Local Plan 2011 and the proposed submission Local Plan 2031 it is recognised that Long Hanborough is near the top of the settlement hierarchy in terms of service provision. In the Local Plan it is called a Service Centre, while in the proposed submission Local Plan 2031 it is classified as a Rural Service centre. The Rural Service Centres come immediately below the three main service centres of Witney, Carterton and Chipping Norton in the settlement hierarchy. As the proposed submission Local Plan 2031 acknowledges: 'not all growth can or indeed should go to Witney, Carterton and Chipping Norton however and there is a need for development elsewhere to spread the potential benefits of growth and help sustain the more rural parts of the District.' (para 4.17)
- 5.23. The six rural service centres of Bampton, Burford, Charlbury, Eynsham, Long Hanborough and Woodstock are described as containing 'a good range of services and facilities and are considered to be suitable for accommodating development of an appropriate scale and type that would help reinforce their existing service centre roles and meet their development needs and those of their immediate hinterlands.' (para 4.18) The section of the proposed submission Local Plan 2031 relating to the Eynsham – Woodstock Sub-

Area also states that 'There is potential for further development primarily at the rural service centres of Long Hanborough, Eynsham and Woodstock.' (para 9.5.34) and the accompanying policy EW2 states that 'The focus of new development will be Eynsham, Long Hanborough and Woodstock.'

- 5.24. The proposed submission Local Plan 2031 recognises that Long Hanborough has a 'good level of accessibility with a Cotswold line railway station just to the east of the village,' 'one of the District's largest and most well-used stations.'(9.5.6 & 9.5.16) and 'a small number of shops, a reasonable range of other services and facilities and there is a sizeable and well used employment area to the east of the village located next to the railway station on the Cotswold line.' (9.5.9) The presence of the train station is virtually unique in West Oxfordshire. None of three main settlements of Witney; Carterton and Chipping Norton has a train station and the only other rural service centre, which has one is Charlbury, which is located within the Cotswolds AONB and where therefore development in accordance with the NPPF is constrained. At Long Hanborough there is a regular direct train service to Oxford, Didcot, Reading, Slough, London and Worcester, with the journey to Oxford only taking 10 minutes. The appellant will therefore produce evidence to demonstrate that Long Hanborough is a very sustainable settlement compared to other settlements in West Oxfordshire.
- 5.25. The Proposed submission Local Plan 2031 acknowledges that West Oxfordshire is relatively sparsely populated and that over 60% of its 81 parishes contain less than 500 residences (para 2.3). The appellant will therefore submit that an application for development in a settlement with a population of 2,400 people; with a good range of services; the absence of environmental constraints and a train station with regular services makes Long Hanborough an eminently sustainable location for development of the scale proposed.
- 5.26. 'Saved' policy H7 in the West Oxfordshire Local Plan 2011 is restrictive, limiting housing development on unallocated sites in service centres to infilling and rounding off within the existing built up area.
- 5.27. The proposed submission Local Plan 2031, contains a much more positive approach to new development in rural service centres such as Long Hanborough, stating in policy H2 that new dwellings will be permitted 'on undeveloped land within or adjoining the built up area' of the rural service centres, 'where the proposed development is necessary to meet identified housing needs and is consistent' with the criteria listed in the policy and 'other policies in this plan.' Although the Council refer to this emerging policy in its reasons for refusal and this policy has not been considered at Examination and does not therefore have the full weight of an adopted policy, evidence will be presented to demonstrate that the proposal is broadly consistent with the requirements of this policy.

5.28. In the evidence to be presented the appellant will set out how the scheme complies with the requirements of the policies relating to Long Hanborough's role as a rural service centre (or conflicts in the case of out of date policy H7) and the weight to be attached to them.

**The Proposed Development will make a significant contribution towards meeting West Oxfordshire District Council's Housing Land Supply**

5.29. The appellant will submit that the housing requirement figure contained within the WOLP is out of date and is not a suitable figure to use as a basis of the calculation of a five year housing land supply calculation.

5.30. In the absence of an up to date adopted Local Plan housing requirement the figure to be used in the calculation of a five year housing land supply is the full and unconstrained objectively assessed need in accordance with the Hunston Judgement<sup>1</sup> and the appeal at Land at West End Farm, off Churchill Road, Chipping Norton, Oxfordshire (APP/D3125/A/2213853).

5.31. In accordance with the Gallagher Homes ruling<sup>2</sup>, the correct document to inform the full objectively assessed housing need is the SHMA, in this case the Oxfordshire SHMA 2014 carried out by GL Hearn Ltd. Furthermore one of the commitments within the City Deal, to which West Oxfordshire District Council is a signatory, is to; 'Commit to deliver the necessary sites that will meet the housing needs outlined in the Strategic Housing Market Analysis.'

5.32. The correct interpretation of the NPPF's Footnote 11, as laid down by the Wainhomes South West Judgement<sup>3</sup> is that 'Available now' means that, if planning permission was granted, there would be no other legal or physical impediment integral to the site preventing immediate development. As such it will be submitted that it is inappropriate to include draft allocations within the emerging West Oxfordshire Local Plan 2031 or sites which are subject to legal negotiations surrounding section 106 contributions within a five year land supply calculation.

5.33. The appellant will submit that the correct method to calculate the five year housing land supply in the light of a shortfall in delivery is the Sedgefield Method.

5.34. The appellant will submit if the SHMA and Sedgefield method are used, that the Council cannot demonstrate a five year supply of housing land.

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<sup>1</sup> Hunston Properties Ltd v Secretary of State for Communities and Local Government and St. Albans City and District Council [2013] EWHC 2678 (Admin)

<sup>2</sup> Gallagher Homes Limited and Lioncourt Homes Limited v Solihull MBC [2014] EWHC 1283 (Admin)

<sup>3</sup> Wainhomes (South West) Holdings Ltd v The Secretary of State for Communities And Local Government [2013] EWHC 597 (Admin)

5.35. The appellant will submit that in the absence of a five year housing land supply, relevant policies for the supply of housing should not be considered up to date but should be set aside and planning decisions should be considered in the context of the presumption in favour of sustainable development.

**The Proposed development would make a significant contribution towards the Oxford and Oxfordshire City Deal**

5.36. The City Deal includes plans to deliver a new network of innovation and incubation centres in order to promote small businesses, and will result in the creation of 18,600 new jobs, while also accelerating the delivery of 7,500 homes across the county.

5.37. One of the key factors in ensuring the success of the City Deal will be the creation of housing to provide homes in sustainable locations for these new workers. In January 2014 the Oxford and Oxfordshire City Deal submission to Government document was published. Page 5 of this document deals with 'Planning for Development'. It states: 'The City Deal should enable further economic growth. However, this success has placed pressure on the local housing market. Oxford and Oxfordshire have overwhelming evidence that the lack of choice and availability of housing and affordable housing is a major barrier to growth. Oxford and other areas in the county are identified as among the least affordable locations in the country...The Universities and businesses in the knowledge economy identify that housing is a significant barrier to the recruitment and retention of staff, including senior management and researchers. More housing is essential for the future of the knowledge economy in Oxford and Oxfordshire.'

5.38. The City Deal therefore clearly identifies that there is existing pressure on the housing market and the fact that the lack of choice and availability of housing and affordable housing is a major barrier to growth. There are also significant constraints to significant further housing development around Oxford, due to Green Belt, flooding and sites which are internationally important for their biodiversity. Despite the importance of the City Deal to ensuring that Oxfordshire emerges from recession and continues to grow, no reference is made to the City Deal in the emerging West Oxfordshire Local plan 2031, which is a significant omission.

5.39. Long Hanborough is close to Oxford with a direct rail link, while the application site does not have any designations or significant environmental constraints. The appellant will therefore submit that the appeal proposal would make a valuable contribution towards meeting the housing provision needed to support the City Deal in a sustainable fashion by its proximity to the knowledge spine.

**Benefits of the Scheme and the planning balance**

5.40. Evidence will be provided to demonstrate the substantial social, economic and employment benefits of the scheme, including:

- Providing much needed market and affordable housing;

- Increasing the mix and choice of housing available for local people;
- Enhancing the biodiversity of the site, through the creation of new habitats including an extensive landscaped belt of native species of tree;
- Substantially increasing the amount of open space available for the local community to enjoy;
- Improving the cycle and pedestrian routes through the village;
- Providing a new doctors' surgery;
- Providing local employment in the construction industry
- Increased population of working age;
- Increased population to support shops and services;
- New Homes Bonus Payments;
- Increased Council Tax Receipts

## **6. AREAS OF AGREEMENT WITH THE COUNCIL & STATEMENT OF COMMON GROUND**

6.1. The appellant will submit that Council officers are correct (as stated in the report to Committee) that:

- To meet future housing targets, there will be a need for development on Greenfield sites in suitable locations (para 5.12);
- The emerging Local Plan seeks to focus most future housing growth at the District's larger towns and villages, including Long Hanborough which is defined as a rural service centre (para 5.12);
- In light of the above, in terms of the principle of residential development on this site, it could be considered acceptable provided that it represents sustainable development as defined by the Local Plan and NPPF and that there would be no significant and demonstrable adverse impacts that would outweigh the potential benefits of the scheme (para 5.13);
- The development would provide much needed housing provision, including affordable homes, which would help to address the needs of the 200 households on the Council's affordable housing waiting list who would qualify for housing in this location (para 1.17);
- The proposed housing tenure mix and layout is generally acceptable for a development of this size (para 5.15);
- In terms of the amenity of neighbouring properties, there would not be any detrimental impacts arising from the proposal in terms of a direct loss of privacy or daylight (para 5.16);
- the Highway Authority do not consider that that the residual cumulative impacts of this development in transport terms would be severe, which is the criteria in paragraph 32 of the NPPF, needed to justify refusal on transport grounds (As confirmed in the E mail dated 2.3.15 from Geoff Arnold, Principal Engineer, Transport Development Control at Oxfordshire County Council);
- There is no technical objection to the scheme on the grounds of highway safety (para 5.26);

- There are no species or habitats identified on the site which withhold development (para 5.27);
- The offer by the applicant to provide a GP surgery is a benefit of the scheme (para 5.33)

6.2. There is agreement therefore that this is a sustainable location for development and that the development would not have a detrimental impact on the residents of neighbouring residents; the highway impacts would not be unacceptable and that the provision of a new doctors' surgery would be beneficial for Long Hanborough.

6.3. A Statement of Common Ground has been prepared. This will be submitted to PINS and the Council with the Statement of Case. The appellant will seek to agree its content with the Council within the timescale set out in the PINS Procedural Guide. If the Council are not prepared to agree to the Statement of Common Ground it will be addressed in the proofs of evidence.

## **7. PLANNING OBLIGATION & PLANNING CONDITIONS**

7.1. A draft planning obligation will be presented in advance of the inquiry which, where compliant with the CIL Regulations (sections 122 and 123), will secure the provision of a doctors' surgery; replacement school playing field; affordable housing provision; and contributions towards primary school education; secondary education; special education needs; off-site sports/recreation facilities; children's play areas; library; strategic waste and recycling facilities; museum resources; social and health care (adult day care) and adult learning based on the final mix.

7.2. A schedule of conditions suggested by statutory consultees is included in Appendix 2, all of which are acceptable to the appellant. A complete draft schedule of conditions will be drafted and agreed by the Council and the appellant prior to the Public Inquiry.

### **Third Party Representations**

7.3. Representations have been made in respect of the proposed development by third parties at the application stage and are set out in summary in the officer's report. They raise a number of issues and where necessary the appellant will set out evidence indicating how they have been addressed.

### **Other Matters**

7.4. The appellant will provide appropriate expert evidence to deal with all matters referred to in this statement.

## **8. CONCLUSION**

- 8.1. The Council claim on the decision notice that the reasons given for refusal 'are considered to represent significant and demonstrable harms that substantially outweigh the benefits of the scheme.' (para 5.38) For the reasons set out above the appellants will submit that this is not the case. There will not be significant adverse landscape impacts; the infrastructure improvements of providing a replacement doctors' surgery and replacement playing field are deliverable, and therefore the benefits of the proposed development, significantly and demonstrably outweigh any perceived adverse impacts of the proposed development, and therefore the proposal consists of sustainable development which accords with paragraph 14 of the NPPF.
- 8.2. For these reasons the appellant respectfully request that the Inspector allows the appeal based on the arguments outlined above.

## **APPENDIX A:**

### **A List of Documents to Which the Appellant May Refer**

#### **Documents**

The Appellant will refer to the following documents:

- The application supporting documents.
- Additional documents submitted as part of the application.
- The consultation responses of statutory and non-statutory consultees and third parties.
- Correspondence with Council Officers and third parties of relevance to the appeal.
- Schedule of Saved Policies of the Local Plan 2011.
- The West Oxfordshire Local Plan 2031 Pre-Submission Draft and relevant evidence base documents including the SHMA and SHLAA.
- West Oxfordshire Design Guide.
- National Planning Policy Framework.
- National Planning Policy Guidance.
- The Council's Annual Monitoring Reports, Interim Position Statement on Housing Land Supply and Housing Land Supply Position Statements.
- Relevant appeal decisions.

The Appellant reserves the right to refer to other documents as necessary.

#### **Statements of Common Ground**

The Appellant has submitted a Draft Statement of Common Ground to the Planning Inspectorate as part of this appeal submission. An agreed Statement of Common Ground will be agreed with West Oxfordshire District Council in line with the timescales within the Planning Appeal Procedural Guidance.

#### **Proofs of Evidence**

The Appellant intends to produce proofs of evidence in respect of the following matters:

- Landscape Impact and Master Planning
- Design
- Housing Requirements and Five Year Supply Position
- General Town Planning Matters

## **APPENDIX B:**

### **Transport**

Oxfordshire County council as Highway Authority is seeking conditions in relation to the following:

- Provision of access in accordance with a detailed plan to be approved
- Drainage scheme to be submitted and approved
- Travel planning
- Construction phase traffic management

### **Education**

Oxfordshire County Council as Education Authority has requested a condition that:

Planning permission to be dependent on a satisfactory agreement to secure the resources required for the necessary expansion of education provision. This is in order for Oxfordshire County Council to meet its statutory duty to ensure sufficient pupil places for all children of statutory school age.

Planning permission specifically to be subject to agreement being reached to secure sufficient additional usable site area to support the expansion of Hanborough Manor Primary School.

### **Drainage**

The Environment Agency is seeking the following conditions:

#### Surface Water Drainage Scheme

No development shall take place until a surface water drainage scheme for the site, based on the agreed Flood Risk Assessment (Infrastruct CS Ltd, Ref: 13-1364-08-02, Rev: B, August 2014) has been submitted to, and approved in writing, by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- . A restriction of the surface water run-off rate from the site to 25 l/s for all storm events up to and including the 1 in 100 year, with an appropriate allowance for climate change, rainfall event.
- . An attenuation pond with the capacity to safely contain the surface water run-off from the site for all storm events up to and including the 1 in 100 year, with an appropriate allowance for climate change, rainfall event. This is estimated to be 1026.5m<sup>3</sup>.

### **Reason**

To ensure the risk of flooding is not increased to the site and surrounding area in accordance with Paragraph 103 of the National Planning Policy Framework (NPPF).

#### Foul Drainage

No development shall take place until such time as a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the local planning authority. The scheme shall be carried in accordance with the approved plans and implemented prior to occupation.

### **Reasons**

To ensure that an appropriate foul drainage infrastructure scheme is provided to so that the foul drainage network can effectively convey and treat foul flows from the development, ensuring there is no risk posed to controlled waters in accordance with Paragraph 109 of the NPPF.

That, prior to the commencement of development, a full surface water drainage scheme, in accordance with the site flood risk assessment, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site in accordance with BRE 365, to demonstrate the infiltration rate. The details must include a management plan setting out the maintenance of the drainage asset. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved and shall be maintained in accordance with the management plan thereafter.

### **Reasons**

To ensure the proper provision for surface water drainage and/ or to ensure flooding is not exacerbated in the locality (The West Oxfordshire Strategic Flood Risk Assessment, National Planning Policy Framework and Planning Policy Statement 25 Technical Guidance).

### **Noise**

The WODC environmental Health officer has suggested the following condition:

“Development shall not begin until a scheme for protecting the proposed dwellings from road traffic noise, to achieve the following British Standard 8233:2014 internal ambient noise levels, has been submitted to and approved in writing by the LPA. All works which form part of the scheme as approved, shall be completed before any of the permitted dwellings are occupied.

Required Internal noise levels:

#### **Location**

Living room	35 dB LAeq 16 hour – 07:00-23:00
Bedroom	30 dB LAeq 8 hour- 23:00-07:00

All habitable rooms must be afforded noise mitigation measures including appropriate glazing and ventilation so as to achieve the above criteria standards.

The layout and or mitigation measures employed for residential property shall achieve a general daytime noise level in rear gardens not exceeding 55 dBLAeq 16 hour (07:00-23:00 hours).”

### **Archaeology**

Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

### **Reasons**

To safeguard the recording of archaeological matters within the site in accordance with the NPPF.

Following the approval of the Written Scheme of investigation referred to in condition 1, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The Programme of work shall include all processing, research and analysis necessary to produce an accessible and usable archive and a full report for publication, which shall be submitted to the Local planning Authority.

### **Reasons**

To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2012).