



405/MD
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Dear Mr Hughes

Appeal and Application at Land off Witney Road, Long Hanborough and Appeal at Land East of Hanborough Bowling Club, Roosevelt Road, Long Hanborough

I write to you regarding the ongoing appeal at Land off Witney Road, Long Hanborough for residential development of up to 169 dwellings with new Doctors' Surgery (Appeal Reference: APP/D3125/W/15/3129767), the conjoined appeal for Playing Fields at land east of Hanborough Bowling Club (Appeal Reference: APP/D3125/W/15/3139807) and the second application submitted on the Land off Witney Road site (LPA Reference: 15/02687/OUT).

It is my understanding that Phil Shaw and yourself met with Roger File of Blenheim Estate on 8 January 2016, and that the subject of the above appeals and application was discussed. I write with reference to my understanding of that conversation, as well as other matters.

As you will be aware the granting of planning permission for residential development, of the scale proposed, in this location would have a number of benefits associated with it. These have been extensively highlighted in the application and appeal documentation which has been submitted and I will not serve to repeat all of this here. However, one particular planning benefit of the proposal is the development of housing at a time when the Council cannot demonstrate a five year housing land supply; have a significant shortfall in the delivery of market housing (by their own figures) and have constantly fallen well short of their affordable housing targets (again using the Council's own figures).

You will also be aware of paragraph 49 of the National Planning Policy Framework, which states that policies pertaining to the supply of housing should be considered as out of date, in the event that the Council cannot demonstrate a five year housing land supply. The Council's reason for refusal for the application for residential development now at appeal attached weight to a perceived lack of accordance with Local Plan 2011 Policy H7 and Policy H2 of the emerging Local Plan 2031. Notwithstanding arguments over whether emerging Policies can be granted weight prior to adoption with such a significant level of objection associated, the policies relate to housing supply, and therefore given that any objective assessment of the housing land supply in the West Oxfordshire District shows that there is no demonstrable five year supply present, they should be considered as out of date with the Presumption in Favour of Sustainable Development engaged. As such the proposals should be granted

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planning permission in accordance with the provisions of the remainder of the Development Plan and other material considerations, including all relevant provisions of the NPPF.

I would suggest that a Planning Balance exercise, if carried out properly, would show that the significant benefits associated with the scheme, including aforementioned cited housing supply benefits, would outweigh any harms present, in this case, especially in the light of local housing policies being granted minimal weight owing to a lack of five year supply.

However, this reasonable approach has not been adopted by West Oxfordshire District Council.

The Council determined the residential application, now the subject of appeal, and issued a Decision Notice on 5 March 2015 which refused the application, and referred housing policies within the Reason for Refusal. At this time the Council were making decisions based on the belief that they could demonstrate a five year supply of housing land using the 525 dwellings per annum (dpa) requirement inherent as the housing requirement within the Local Plan 2031. This was despite the fact that the Oxfordshire SHMA 2014 stated that the range of the objectively assessed housing need for West Oxfordshire District was between 635 dpa and 685 dpa, with a midpoint of 660.

However, on the 15 December 2015, following the First Hearing Session of the Examination in Public on the West Oxfordshire Local Plan 2031 in November 2015, Simon Emerson, the Inspector responsible, issued the Preliminary Findings on the Local Plan 2031.

Within his Report, Mr Emerson raised many technical concerns regarding the Council's evidence used in arriving at a housing requirement of 525 dpa, and not adopting the SHMA 2014's figure of 660 dpa. I will not repeat these here as they are available in his Report. However, his conclusions on the objectively assessed housing need and housing requirement were that, the Council has failed to justify their use of the 525 dpa figure (paragraph 1.2 of Part 1 of the Preliminary Findings Report) and that the use of the 660 dpa SHMA figure would overcome the shortcomings of the 525 figure. On this basis it is clear that if the Council wishes to continue with the Plan, it will have to undertake substantial amounts of work to overcome the Inspector's concerns, thus incurring significant delays.

As such it is clear that after a process of independent adjudication the 525 dpa basis for five year housing land supply calculation has been dismissed, and that the 660 dpa figure represents a sensible figure which accords with all relevant guidance.

When calculated against the 660 dpa figure, the Council cannot demonstrate a five year supply of housing land, even when using their own supply of sites within the February 2015 WODC Housing Land Supply Position Statement, which has some questionable inclusions in itself and looks to be inflated.

In refusing to acknowledge the fact that they cannot demonstrate a five year supply of housing land, for both the residential appeal and application, the Council are in fact acting unreasonably. This is because they are skewing the planning balance against the scheme owing to a five year supply position which is a falsehood and clearly cannot be justified on the evidence that the Council continue to use. This is covered under the 'substantive' definition of 'unreasonable' outlined within paragraph 31 of the Planning Practice Guidance (Reference ID: 16-031-21040306). Acting in such a way would make the Council liable for costs.

In terms of my client's costs incurred since the Appeal start date for the residential scheme on 25 August 2015, they are currently £96,672.29. It is anticipated that following a 5 day Inquiry these costs will be significantly higher. It is the current view of the Appellants that they would be making a full application for these costs to the Planning Inspectorate in light of the Council's behavior, as outlined above.



In light of the position on housing land supply, as set out above, the Council has an opportunity to improve its five year supply by approving the duplicate residential application, which is the subject of this letter.

Long Hanborough is identified as a Group C settlement, the most sustainable in the District, within the Local Plan 2011 and as one of 6 Rural Service Centres within the submission draft Local Plan 2031. It is also acknowledged by WODC that Long Hanborough is one of only two identified settlements in the District with a train station. Thus it is clear that according to the Council's own adopted and emerging Plans, the settlement is sustainable. It should also be noted that paragraph 9.5.2 of the submission draft Local Plan 2031 identifies that Primary school capacity is an issue for the village and that the emerging Local Plan 2031 would need to address this. In providing a replacement playing field, and allowing the school to expand on its current site, the proposed scheme solves this issue. There is no other development proposal, or means articulated in any published Plan, which allows the school to expand and solves this key infrastructure constraint. The benefits of the inclusion of a Doctors' Surgery on the site will also result in significant benefits for the community and again solve a key infrastructure constraint.

In approving the application, it will negate the need for an appeal to cover the proposed residential development at Land off Witney Road with the Inquiry currently scheduled to begin on 16 February 2016. While the playing field appeal will still be heard, there is the potential for the Council to not offer a case and therefore the appeal would be allowed and facilitate the implementation of an approved residential application. This course of action would mean that substantial time and resources are saved by all parties, and that a sustainable development is approved and the multitude of benefits associated may be realised.

Should the Council decide that this is not the course of action that they would wish to pursue my client has informed me that they will be seeking a full award of costs during the appeal process, based on the fact that the Council are willfully ignoring evidence, which effects a substantial part of their case, in an effort to block a sustainable development. This amounts to unreasonable behavior based on the definitions outlined within the Planning Practice Guidance, as shown above.

I hope to hear from you soon regarding this matter which can hopefully be resolved without the need for an unnecessary planning appeal and subsequent application for costs.

Yours sincerely

Matthew Dawber MRTPI
For West Waddy ADP