

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

2 August 2017

**AUTHOR/S:** Joint Director for Planning and Economic Development

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**Application Number:** S/1294/16/FL

**Parish(es):** Orchard Park

**Proposal:** Erection of a mixed-use residential led development comprising 63 one bedroom units on upper floors including 40% affordable housing along with 67 car parking spaces, cycle parking and associated hard and soft landscaping, gymnasium (D2 use class) and two commercial units (comprising flexible A1, A2 and D1 uses)

**Site address:** Parcel L2, Topper Street, Orchard Park

**Applicant(s):** Turnwood Limited

**Recommendation:** Delegated approval (subject to complete Section 106)

**Key material considerations:** Principle of development, Visual impact, Affordable housing, Residential amenity, Highway safety & parking provision, Ecology, Surface water and foul water drainage, Environmental impacts, Section 106 Contributions

All of these matters were considered in the report presented to Planning Committee in March 2017, when Members resolved to grant planning permission. This report focusses on the implications of the Supreme Court judgement relating to the extent of Local Plan policies which are considered to affect the supply of housing.

**Committee Site Visit:** 31 January 2017

**Departure Application:** No

**Presenting Officer:** Katie Christodoulides, Senior Planning Officer

**Application brought to Committee because:** To consider the implications of the *Hopkins Homes* Supreme Court judgement relating to the extent of Local Plan policies which are considered to affect the supply of housing.

**Date by which decision due:** 4 August 2017 (extension of time agreed)

## Introduction

1. This application was considered at the 1 February 2017 meeting of the Planning Committee. The Committee resolved to approve the application subject to the prior completion of a Legal Agreement (as detailed in the previous report and the attached appendix), The application remains undetermined pending the completion of the section 106 agreement. A copy of that report and the updated report are appended to this report.
2. On 10 May 2017, the Supreme Court gave judgment in *Suffolk Coastal DC v Hopkins Homes Limited* and in the conjoined matter of *Richborough Estates Partnership LLP v Cheshire East BC* [2017] UKSC 37.
3. The Supreme Court Judgement narrows the range of development plan policies which can be considered as 'relevant policies for the supply of housing'. Those policies are now not to be considered out of date, even when a five-year housing land supply cannot be demonstrated.
4. In respect of South Cambridgeshire this means that the Local Development Framework Policies that were listed as being out of date at the time when this application was considered are no longer held to be out of date.
5. On 30 June 2017, the Court of Appeal issues a further judgement in *Barwood Strategic Land v East Staffordshire Borough Council*. The Court held that the "presumption of sustainable development" within the National Planning Policy Framework (NPPF) falls to be determined in accordance with paragraph 14 and there was not any wider concept of a presumption of sustainable development beyond that set out in and through the operation of, paragraph 14. Paragraph 14 of the NPPF has been applied in this supplementary report with the approach of the Supreme Court in *Suffolk Coastal* and it is not considered that the *Barwood Land* decision requires any further changes to the advice set out above.
6. The overriding issue however is not whether the policies are out of date but whether, in light of the continuing lack of a five year housing land supply, it can be shown that the "adverse impacts ... would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole". That is the test required by paragraph 14 of the NPPF, regardless of whether policies are 'out of date' or not. This test should be given considerable weight in the decision making process even though the definition of policies affecting the supply of housing has been narrowed by the Supreme Court judgement. Given the need to boost the supply of housing, the contribution of the proposal to the supply of housing (including affordable housing) is considered to outweigh the conflict with the policies of the LDF.
7. This report considers the officer advice given to Members at the February 2017 meeting in relation to the policies relating to the supply of housing and the extent to which this has changed as a result of the Supreme Court decision.

## Planning Assessment

8. The Council accepts that it cannot currently demonstrate a five year housing land supply in the district as required by the NPPF, having a 4.1 year supply

using the methodology identified by the Inspector in the Waterbeach appeals in 2014. This shortfall is based on an objectively assessed housing need of 19,500 homes for the period 2011 to 2031 (as identified in the Strategic Housing Market Assessment 2013 and updated by the latest update undertaken for the Council in November 2015 as part of the evidence responding to the Local Plan Inspectors' preliminary conclusions) and latest assessment of housing delivery (in the housing trajectory March 2017). In these circumstances any adopted or emerging policy which can be considered to restrict the supply of housing land is considered 'out of date' in respect of paragraph 49 of the NPPF.

9. The effect of the Supreme Court's judgement is that policies DP/1(a) and DP/7 are no longer to be considered as "relevant policies for the supply of housing". They are therefore not "out of date" by reason of paragraph 49 of the NPPF. None of these adopted policies are "housing supply policies" nor are they policies by which "acceptable housing sites are to be identified". Rather, together, these policies seek to direct development to sustainable locations. The various dimensions of sustainable development are set out in the NPPF at para 7. It is considered that policies DP/1(a) and DP/7 and their objectives, both individually and collectively, of securing sustainable development accord with and furthers the social and environmental dimensions of sustainable development, and therefore accord with the Framework.
10. Any conflict with adopted policies DP/1(a) and DP/7 is still capable of giving rise to an adverse effect which significantly and demonstrably outweighs the benefit in terms of housing delivery of the proposed development in terms of a residential-led development cannot simply be put to one side. Nonetheless, the NPPF places very considerable weight on the need to boost the supply of housing, including affordable housing, particularly in the absence of a five year housing land supply. As such, although any conflict with adopted policies DP/1(a) and DP/7 is still capable, in principle, of giving rise to an adverse effect which significantly and demonstrably outweighs the benefit of the proposed development, any such conflict needs to be weighed against the importance of increasing the delivery of housing, particularly in the absence currently of a five year housing land supply.
11. A balancing exercise therefore needs to be carried out. It is only when the conflict with other development plan policies – including where engaged policies DP/1(a) and DP/7 which seek to direct development to the most sustainable locations – is so great in the context of a particular application such as to significantly and demonstrably outweigh" the benefit in terms of the delivery of new homes that planning permission should be refused.
12. Although this proposal is located outside the development framework, accessibility to public transport from the site is considered to be a significant benefit of the location. In addition, the scheme would further improve the community facilities within Orchard Park, enhancing social and economic sustainability of the scheme and the overall sustainability. Access to services and facilities is also considered to be adequate. The weight that can therefore be attached to the conflict with policies DP/1(a) and DP/7 which are intended to ensure that development is directed to the most sustainable locations in the district is limited.

13. It is considered that the scheme includes positive elements which demonstrate that as a whole the scheme achieves the definition of sustainable development. These include:
- the positive contribution of up to 63 dwellings towards the housing land supply in the district based on the objectively assessed need for 19,500 dwellings and the method of calculation and buffer identified by the Waterbeach Inspector.
  - the provision of 25 affordable dwellings on site, consisting of 25 dwellings at 80% equity share of the open market value, with the remaining 20% retained by the Council in perpetuity. This would meet the local housing need in Orchard Park and provide housing for nearby workers in the Science Park who are seeking to purchase a house.
  - The provision of improvements to cycle facilities on Arbury Road through a financial contribution.
  - The provision of off-site open space through a financial contribution which would go towards outside gym equipment at the community centre, together with a contribution towards the refurbishment and improvement of the health centre at Arbury Road surgery.
  - The provision of commercial units at ground floor level would increase vitality in the area and the number of social leisure spaces through the proposed gymnasium.
  - Employment during construction to benefit the local economy.
  - Potential to result in an increase in the use of local services and facilities.
  - Environmental benefits of ecological enhancements, landscaping and renewable technology provision.

### **Conclusion**

14. Officers consider that notwithstanding the conflict with policies DP/1(a) and DP/7, this conflict can only be given "limited" weight. None of the disbenefits arising from the proposals are considered to result in significant and demonstrable harm when balanced against the positive elements and therefore, it is considered that the proposal achieves the definition of sustainable development as set out in the NPPF.
15. The provision of 63 dwellings, including 25 affordable dwellings can be given significant weight. The contributions towards cycle facilities, community facilities, health provision all carry weight in favour of the proposals. Employment during construction to benefit the local economy and the potential for an increase in the use of local services can also be given some limited weight.
16. None of the disbenefits arising from the proposals are considered to result in significant and demonstrable harm when balanced against the positive elements and therefore, it is considered that the proposal achieves the definition of sustainable development as set out in the NPPF.

### **Recommendation**

17. Officers recommend that the Committee again resolves to grant planning permission subject to the conditions and section 106 agreement as before.

18. The following items are appended to this report:

- a. Appendix 1 – report presented to committee in February 2017
- b. Appendix 2 – Section 106 matrix appended to February Committee report
- c. Appendix 3 – Update report presented to committee in February 2017

### **Background Papers:**

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

Where the [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, then they must be available for inspection—

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
  - (b) on the Council's website; and
  - (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.
- South Cambridgeshire Local Development Framework Development Core Strategy (adopted January 2007)
  - South Cambridgeshire Local Development Framework Development Control Policies DPD (adopted July 2007)
  - Planning File Ref: S/1734/14/OL

**Report Author:**

Katie Christodoulides  
Telephone Number:

Senior Planning Officer  
01954 713314