

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

2 August 2017

AUTHOR/S: Joint Director for Planning and Economic Development

Application Number: S/2921/15/OL

Parish(es): Willingham

Proposal: Outline Proposal for Erection of 26 Dwellings including 10 Affordable Units & Ancillary Access Arrangements (All matters reserved apart from access)

Site address: Land South of 1b Over Road, Willingham, Cambridge, Cambridgeshire, CB24 5EU

Applicant(s): Mr Ernest Wynn

Recommendation: Approval

Key material considerations: Housing Land Supply, Planning Policy and Principle Design Considerations, Density, Housing Mix Affordable Housing, Landscape and Visual Amenity Impacts on Trees, Residential Amenity, Access and Highway Safety, Archaeology, Ecology, Flood Risk and Drainage, Contamination, Developer 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: 6 September 2016

Departure Application: Yes

Presenting Officer: Thorfinn Caithness, Principal 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: 31 July 2017 (extension of time agreed)

Introduction

1. This application was considered at the 7 September 2016 meeting of the Planning Committee. The Committee resolved to approve the application

subject to completion of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 relating to affordable housing, education, libraries and lifelong learning, open space and monitoring, and subject to the conditions and informatives set out in the original planning committee report. The application remains undetermined pending the completion of the section 106 agreement. A copy of the original committee report is 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 September 7 2016 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), DP/7 and ST/5 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), DP/7 and ST/5 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), DP/7 and ST/5 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), DP/7 and ST/5 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), DP/7 and ST/5 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 of a Policy ST/5 Minor Rural Centre, the scale and amount of development proposed is reflective of that which Policy ST/5 would normally allow (Max 30 dwellings). Furthermore, 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 the village, enhancing social sustainability of the scheme and the overall sustainability of Willingham. Access to services and facilities within the village 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. Policies HG/1 (Housing Density), HG/2 (Housing Mix), NE/6 (Biodiversity) and CH/2 (Archaeological Sites) were all policies that were previously considered to be relevant policies for the supply of housing. That is no longer the case. However, no conflict was identified with any of these policies and thus none of them require a reassessment in terms of any harm that might arise.
14. 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 26 additional 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 10 affordable dwellings towards the district wide need of 1,700 applicants
 - Developer contributions towards public open space and community facilities in the village, including equipped children's play space and an extension to the local Primary school.
 - Suitable and sustainable location for this scale of residential development given the position of the site in relation to access to public transport, services and facilities and local employment.
 - Employment during construction to benefit the local economy.
 - Greater use of local services and facilities to contribute to the local economy and improve their sustainability.
 - The Flood Risk Sequential and Exceptions Tests have been passed and the site can be made safe from the risks and effects of flooding without causing an increased risk of flooding to other land and property.

Conclusion

15. Officers consider that notwithstanding the conflict with policies DP/1(a), DP/7 and ST/5, this conflict can only be given "limited" weight.
16. The provision of 26 dwellings, including 10 affordable dwellings can be given significant weight. The contributions towards the provision infrastructure in relation to public open space, community facilities and education all carry weight in favour of the proposals. Employment during construction to benefit the local economy can also be given some limited weight.
17. 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

18. Officers recommend that the Committee again resolves to grant planning permission subject to the conditions and section 106 agreement as before.
19. The following items are appended to this report:

- i) Appendix 1 – report presented to committee in May 2017
- ii) Appendix 2 – Section 106 matrix appended to May 2017 committee report

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.

- National Planning Policy Framework (NPPF)
- South Cambridgeshire Local Development Framework Core Strategy DPD 2007
- South Cambridgeshire Local Development Framework Development Control Policies DPD 2007
- South Cambridgeshire Local Development Framework Supplementary Planning Documents (SPD's)
- South Cambridgeshire Local Plan Submission 2014

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