
Appeal Decision

Inquiry held on 1- 4 December 2015 and 11 February 2016.

Site visit made on 12 February 2016.

by Siân Worden BA DipLH MCD MRTPI

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

Decision date: 04 May 2016

Appeal Ref: APP/K2420/W/15/3004910

Land off Sherborne Road, Burbage, Leicestershire LE10 2BE

- 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 Jelson against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 14/00475/OUT, dated 12 May 2014, was refused by notice dated 12 November 2014.
 - The development proposed is residential development and associated infrastructure.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Jelson against Hinckley & Bosworth Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The planning application was in outline with all matters apart from access reserved for later determination.

Main Issues

4. I consider that the main issues in this case are:
 - whether there is a 5 year supply of housing land in the Borough, and
 - the effect of the proposed development on the character and appearance of the surrounding landscape.

Reasons

Housing land supply - OAN

5. In order to boost significantly the supply of housing local planning authorities are required to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs (OAN) for market and affordable housing in the housing market area¹. The Hinckley and Bosworth (H&B) Core Strategy (CS) was adopted in 2009, predating the publication of the National Planning

¹ The Framework paragraph 47

Policy Framework (the Framework) in 2012. The CS target is to deliver 9000 dwellings up to 2026, that is, 450 units per annum. This requirement, however, is derived from the revoked East Midlands Regional Plan, the dwelling targets in which were based on 2004 household projections. The CS requirement is not the OAN and is not, therefore, consistent with the Framework.

6. The starting point for the calculation of OAN is demographic calculations based on the most recent, available population projections. This is made clear in paragraph 159 of the Framework which states that the strategic housing market assessment (SHMA) should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which meet household and population projections, taking account of migration and demographic change. The Council, together with the other Leicestershire district and borough councils and Leicester City Council, commissioned a SHMA which was published in June 2014².
7. Demographic calculations result in the total number, expressed as a range, of people and households likely to live in the Borough during the plan period, regardless of the type of dwelling which they might desire or require. The latter needs, for example the numbers requiring housing for families; for older people; for those with low mobility; or for those who cannot afford market housing, are the products of separate and different calculations and assessments. In theory they are included within the total population arising from population projections and a demographic methodology and should be consistent with them.
8. A main area of dispute between the parties is whether affordable housing need should be fully met by the OAN. The appellant's view is that the OAN arising from the SHMA is a constrained or policy-on figure and that, consequently, the upper end of the range is not properly identified. On the other hand, the Council concurs with the guidance set out in the Planning Advisory Service's technical advice note on the matter³. This describes those factors which should not contribute to OAN as being 'below the line'; they are matters which should not be included in the OAN calculation but which should be taken into account at a later stage when formulating provision targets. The technical advice note argues that affordable housing need is not measured in a way that is directly comparable with OAN and should not be a constituent of it; affordable housing should thus be below the line and a policy consideration.
9. Based on demographic-led household projections the SHMA concluded that the bottom end of the OAN range for H&B up to 2031 was 375. Due to the mechanism by which the vast majority of affordable housing is delivered, that is as a percentage of all residential schemes over a threshold of units (and subject to viability), it might be necessary to increase the number of dwellings required overall in order to maximise the provision of affordable housing. This measure, which is referred to in PPG⁴, is a policy decision and thus appropriately calculated outside of OAN. In H&B the number of homes needed for supporting proportionate economic growth was identified through the SHMA as 467 and the affordable housing need as 248 per annum⁵. In order to

² *Leicester and Leicestershire Strategic Housing Market Assessment*, GL Hearn and Justin Gardner Consulting.

³ *Objectively Assessed Need and Housing Targets* Technical advice note, second edition July 2015.

⁴ PPG Reference ID: 2a-029-20140306

⁵ SHMA Table 84

support the provision of additional affordable housing and a growth in employment/labour supply, therefore, the top end of the range⁶ was put at 450; that is therefore a policy-on figure.

10. There is no dispute that there is a significant need for affordable housing in Hinckley and in Burbage. The most recent analysis is in the SHMA which puts the figure at about 250 dpa. In increasing the demographically produced figure of 375 up to 450, a 20% uplift, specifically to provide for affordable housing and economic growth, the OAN properly takes account of that need.
11. The appellant's view is that the top of the OAN range should be at least the 980 dwellings identified in the SHMA⁷ as the total amount of housing necessary to deliver the indicated housing need under current policy. This is clearly impractical and unreasonable; the corollary would be a requirement of 196,825 units in the HMA as a whole, a considerable, inconsistent and thus unjustifiable increase on the 75,000 or so dwellings calculated from household projections to be needed by 2031. The 980 figure identified in the SHMA is thus purely theoretical although it could be used as a pointer to further policy adjustments, such as a change in the percentage of affordable housing required. Significant issues in the area such as shortcomings in housing provision, including affordable housing, should be addressed through the Local Plan.
12. Since the SHMA was produced more recent population projections, for 2012, have been published. Analysis of them shows a need for 364 dpa in H&B derived from the total figure for Leicestershire. This is lower than the bottom end of the SHMA OAN but generally consistent with it. In my opinion the figure confirms the Council's approach and validates the CS housing provision of 450 dwellings which is about 24% above that needed to meet demographic increases.
13. It is not my role in this decision to identify an alternative OAN. The appellant has calculated however that, all things being equal, the housing land supply would fall below five years where the OAN was 539 dpa⁸. This figure would be a 44% uplift on the 375 demographically-led household projection which, to my mind, would represent a considerable number of additional affordable dwellings. If I had considered, therefore, that the 450 dph housing requirement was wanting it would still not have been necessary to increase it beyond the 539 threshold whereby a five year supply was not available.
14. Over recent years policy and guidance on OAN, and specifically the inclusion or otherwise of affordable housing, has been interpreted in a number of judgements and inspectors' decisions and reports. In *Satnam Millennium Ltd v Warrington Borough Council* (Feb 2015) the judge found that the assessment of full OAN for housing had not taken account of the substantial need for affordable housing. It is not clear, however, whether he intended that the full affordable housing need should be included in the OAN.
15. In respect of the *Oadby and Wigston v Bloor Homes* case (July 2015) the Court found that the inspector had been entitled to exercise his planning judgement on all of the evidence before him. He had lawfully concluded that the range arising from the Leicestershire SHMA, the same document as is central to this

⁶ SHMA Table 84

⁷ SHMA Table 48

⁸ Inquiry Document 21

case, was "policy on" and that it failed properly to reflect the affordable housing needs and the needs generated by economic factors. A significant difference between that case and the one before me here is that in Oadby and Wigston the Council's housing requirement figure of 80-100 dpa was well below the SHMA affordable housing need of 160 dpa.

16. The judgement in Kings Lynn v Elm Park Holdings (July 2015) stated that the Framework made it clear that affordable housing needs should be addressed in determining the full OAN, but neither it nor the PPG suggested that they had to be met in full by the full OAN. This judge disagreed with the conclusions of the Oadby and Wigston v Bloor Homes judge.
17. The inspector undertaking the Charnwood CS examination concluded in September 2015, after a thorough assessment, that the Leicester and Leicestershire SHMA provided an up-to-date and robust assessment of housing needs in the HMA. He agreed that the OAN for the Housing Market Area (HMA) should be 4,215 dpa; the H&B OAN of 375-450 is a component of that overall figure. These conclusions further support the Council's position.

Housing land supply - buffer

18. A borough's five year supply should include an additional buffer of at least 5%, moved forward from later in the plan period⁹, but where there has been a record of persistent under delivery the buffer should be increased to 20%. Advice on determining persistent under delivery is given in PPG which states that it is a question of judgment for the decision maker. It adds that there can be no universally applicable test or definition and the assessment of a local delivery record is likely to be more robust if a longer term view is taken which will account for the peaks and troughs of the housing market cycle¹⁰.
19. The appellant's view is that, as the issue is whether the Council will be able to deliver the housing requirement set out in the adopted development plan, only performance during that plan period should be assessed, namely since 2006. It points out that this period is long enough to cover peaks and troughs. The Council's 14 year monitoring period undoubtedly takes a longer term view, although I note that only the two most recent years of the previous plan period (2004/5 and 2005/6) are necessary to bring the balance into the black.
20. The period at the beginning of a plan period, when sites allocated in the previous plan have been mainly built out and new allocations have yet to be confirmed by adoption, can amount to a trough. In this case it was succeeded by the national recession. It is thus reasonable to include a peak period, for example the years up to 2006/07, in the monitoring period. The position might be different if there was a continuing undersupply but this is not the case. During the two most recent monitoring years completions were 30 units above the requirement (in 2013/14) and 302 greater (2014/15). In my judgement, therefore, there has not been persistent under delivery and a buffer of 5% is sufficient. The appellant has drawn my attention to a recent (October 2015) housing trajectory. The projected number of completions for 2015/16 is 379¹¹ which would be a shortfall of 71, or 16%, on the required 450 units pa. This would not make a significant dent in the total units when calculated over the

⁹ The Framework, paragraph 47

¹⁰ PPG Reference ID: 3-035-20140306

¹¹ Housing Trajectory, RT PoE, Appendix 11

longer period adopted by the Council. Furthermore, as it is not a confirmed figure it cannot carry much weight.

Housing land supply – deliverable sites

21. Only deliverable sites can contribute towards the five year supply of housing land. The Framework defines deliverable sites as those which are available now, offer a suitable location for development now, and are achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years¹². Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out¹³.
22. The appellant has not challenged the contribution expected to be made by small sites to the available supply but four of the large sites are questioned. Sites AS100 and AS833 both have consents for care homes; the appellant argues that both also have a history of unimplemented permissions contrary to the advice set out in PPG¹⁴. At the first permission has been extended up to May 2016 and the site has been cleared. I agree with the Council that, despite the site not being marketed, there is evidence of a firm intention to develop the site. At the second the agent confirmed an intention to submit a further application by the end of 2015 and this had come forward by the time of the inquiry. There are no significant infrastructure constraints at either of these sites.
23. It was the appellant's view that AS893 was not available now as it was in use as a gymnasium. Outline consent had, however, been resolved for a grant in November 2014 with negotiations regarding the S106 agreement being the only hurdle to its finalisation. To my mind there is a clear aim to develop the site and it is available. The final site challenged by the appellant, AS306/307, is in multiple ownerships with a former brickworks, which would need remediation, just outside the boundary. There is a consent which has been extended until June 2016. The Council had spoken to the agent in November 2015 and he had reported developer interest with the landowner wishing to exchange contracts in December 2015. As with the second care home site, no units were scheduled to come forward until later in the five year period. All in all I consider that these four sites can be considered to be suitable, available and achievable.
24. Some units from two Sustainable Urban Extensions (SUEs) at Barwell (200 dwellings) and East Shilton (130 dwellings) are also included in the Council's housing land supply calculation¹⁵. These substantial and ambitious proposals, which are identified in the CS and the subject of an Area Action Plan adopted in September 2014, are bound to take much longer to get off the ground than a common or garden residential development. Delays to an initial timetable are not unusual and need not be fatal to delivery.

¹² The Framework, paragraph 47, footnote 11

¹³ PPG Reference ID: 3-031-20140306

¹⁴ PPG Reference ID: 3-020-20140306

¹⁵ AM PoE Table 1 on page 6

25. At Barwell a resolution to grant outline permission was made in April 2013, confirmed in March 2015 following an affordable housing viability study, and negotiations on a S106 are, according to the Council, nearing completion. In respect of East Shilton, at a developer forum in November 2015¹⁶ attended by interested house builders and H&BBC all parties confirmed their full commitment to bringing forward the SUE. The appellant owns land at East Shilton on which approximately 250 dwellings would be provided. Although the appellant intended delivery of those 250 to run alongside that of other potential interests in the area, its commitment to the Earl Shilton SUE was not affected.
26. In my opinion the evidence presented to the inquiry indicates a realistic prospect that the SUEs would deliver units by the end of the five year supply period. In addition the numbers forecast to come forward by then are modest. The Sketchley House¹⁷ inspector's concerns in respect of the SUEs were voiced in September 2014 prior to the agreement to re-negotiate the Barwell S106 obligation and before the East Shilton developer forum.
27. I have not seen any compelling arguments as to why the Council's 5% discount on large sites and 9% on small sites are not sufficient to account for the non-implementation of planning permissions.
28. The appellant also questions several of the residential allocations in the draft Site Allocations and Development Management Policies Development Plan Document (DPD). In March 2015 the Council approved the setting up of a company wholly owned by H&BBC whose purpose would be to build houses for sale and rent. That strikes me as a positive initiative confirming the Council's intentions to bring forward land in its ownership which has been set aside for housing development; it can only assist that process. The draft DPD is nearing the end of its examination with main modifications, which are changes necessary to make the plan sound, having recently (February/March 2016) been the subject of consultation. None of the modifications concern fundamental changes to the housing requirement, allocated sites or the housing land supply. Having also considered the Council's responses on the disputed sites¹⁸ I am confident that the number of dwellings on allocated sites is realistic and appropriate.
29. Finally on the matter of deliverable sites, the Council's calculation of housing land supply¹⁹ is five years and ten months; an 'overprovision' (column h) of 461 units makes the period comfortably longer than five years. It thus provides for some slippage or non-delivery of the sites comprising the housing supply.

Housing land supply – conclusions

30. All in all I have found that the calculation of OAN takes account of the substantial need for affordable housing and is otherwise sound. In addition there is no record of persistent under delivery and a 5% buffer is adequate. The identification of sites contributing to the five year supply and the prediction of when and how many dwellings will be delivered is reasonable. I therefore conclude that there is sufficient housing land in H&B to meet housing needs for the following five years.

¹⁶ Inquiry document 13b

¹⁷ APP/K2420/A/13/2208318

¹⁸ Inquiry document 13a

¹⁹ AM PoE Table 1 on page 6

31. My findings are supported to some extent by those of the inspector deciding the Markfield Road, Ratby case who concluded as recently as October 2015²⁰ that the housing land supply calculation submitted by H&B Council to that inquiry was as sound a calculation as was possible to make at that time. In reaching his decision he had not explored the OAN but had considered the position in respect of the buffer and deliverable sites including the SUEs. Overall he found that there was sufficient housing land in the Borough to meet requirements for the next five years.
32. I am aware that some of the quoted cases are the subject of legal challenge. Unless and until they are quashed or overturned, however, they are either law or, in the case of inspectors' reports and decisions, carry significant weight.

Character and appearance of the landscape

33. Burbage is a village to the south east of the town centre which has been absorbed by the urban mass of Hinckley. The appeal site comprises two fields on the outermost, eastern side of the village; they are part of an undeveloped parcel of land between the edge of Burbage, which is also the edge of the Hinckley urban area, and the M69. The proposal is for residential development in the region of seventy three dwellings, 20% of which would be affordable units.
34. To take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside is one of the Framework's core planning principles²¹. It also states that the planning system should contribute to the natural and local environment by protecting and enhancing valued landscapes²². A letter from the Minister of State for Housing and Planning²³ emphasises that, outside of designated areas which enjoy a high level of protection, the impact of development on the landscape can be an important material consideration. He stresses the need to take full account of all the dimensions which contribute to sustainable development, that is to say the environmental as well as the social and economic.
35. The Leicestershire Round long distance footpath crosses the site emerging in Sherborne Road. The illustrative masterplan indicates that its current route would be maintained passing through a main area of public open space proposed within the new development. I am sure that this area could be landscaped, including for example with indigenous species, to reflect the character of the surrounding landscape and that it would be pleasant. Nonetheless, from it a considerable number of houses would be visible to the north and particularly to the south. The current view to the south is of a grassy field sloping gently upwards to a hedgerow with scattered trees visible behind and, from the outer part of the route, the steeple of the church. Despite the modern housing at the edge of the site, it is a timeless, archetypal vista which would be spoiled by the proposed development; the experience of recreational walkers on the public right of way (PROW), whether covering many miles or enjoying a local stroll, would be harmed.
36. The boundary between the existing housing off Salisbury Road and the appeal site is defined by a low hedgerow. Over it can be seen the modern dwellings

²⁰ APP/K2420/W/15/3003301

²¹ The Framework, paragraph 17

²² The Framework, paragraph 109

²³ Brandon Lewis MP to Simon Ridley, Chief Executive of the Planning Inspectorate, dated 27 March 2015

closest to it and some of the settlement behind, a typically suburban view. The dense, high conifer hedge along the northern boundary of the site is also uncharacteristic of the countryside setting. Nevertheless, when facing away from these detracting features, the appeal site with its enclosing hedgerows and glimpsed views to the open countryside beyond, has landscape value. This is recognised by the appellant who describes the condition of the site and surrounding area as fair and as being of medium/high scenic quality²⁴. I noticed its attractiveness during my February site visit and am confident that, in the spring and summer when the hedgerows come into full leaf, it is more pleasant still.

37. That value diminishes as one progresses towards the motorway; the hedgerows are lower, the landscape becomes more open, and the intrusion of the pylons and motorway is more apparent. These effects on the land around it emphasise the largely unspoilt character of the appeal site. From the extensive residential area to the west, the open countryside, and especially the appeal site, is glimpsed from Salisbury Road and seen clearly from Ilminster Close, Sherbourne Road and Dorchester Road. It is clear from the number of objections to the scheme from local people that many of them value living close to this rural area. To my mind, the appeal site contributes to the identity of Burbage providing, at least for those who can see it, a reminder that they are in a village.
38. It would not be possible or desirable, and is not intended, to supplement the existing hedgerows to the extent where they blocked all views. The proposed development would thus be visible from the PROW on the approach to Burbage. From that location it is likely that, once construction was completed, there would not be a significant change from the existing view; I do not consider that the increased area of housing development would be harmfully noticeable. The site is also visible, however, from viewpoints on the surrounding roads such as Aston Lane and Lychgate Lane, particularly where the latter rises over the motorway. From these locations I consider that the proposed development would be perceived as bulging out from the clearly defined, existing urban edge and encroaching into the currently undeveloped parcel of open countryside between Burbage and the motorway.
39. CS Policy 4, entitled *Development in Burbage*, is a fairly broad-brush but comprehensive policy setting out a list of social, economic and environmental objectives for the settlement. The first section is mainly concerned with Burbage's function as a local centre, which also supports Hinckley's role as a sub-regional centre, whilst the second part concerns the settlement's character and sense of place.
40. A requirement under the second section is that the open landscape to the east of Burbage, which provides an important setting for the village, should be protected and preserved. Thus, although there is no designating line drawn around the protected area, in describing broadly where it is and its importance it seems to me that Policy 4 defines a valued landscape. Furthermore, and despite not being set out in a list, the policy identifies characteristics against which to assess proposals; these include that the landscape is open, that it provides an important setting for the village and that it separates Burbage from the M69 corridor. I do not consider that the policy amounts to a blanket ban

²⁴ Gary Holliday Proof of Evidence paragraph 6.7

on all development. Unlike the policy before the inspector in the Coalville case²⁵, CS Policy 4 is not, therefore, significantly inconsistent with paragraphs 109 or 113 of the Framework.

41. I do not see any inconsistency, either, between the Council's decisions in this case and on Lutterworth Road²⁶; land to the south of Burbage is not explicitly protected by Policy 4. Indeed, it could be seen to support my finding that Policy 4 identifies a valued landscape, namely the land to the east of Burbage only.
42. My conclusion on the issue of character and appearance is that the proposed development would not protect or preserve the open landscape to the east of Burbage, contrary to CS Policy 4. This policy carries significantly more weight than the less discriminating Policy NE5 of the H&B Local Plan, adopted 2001, which protects the open countryside for its own sake and is not site-specific.
43. At the moment it is possible to have access to all parts of the appeal site and many local people have reported that it is well-used, especially by children playing. Apart from on the route of the footpath other recreational use is, however, informal and permissive. Moreover, although the proposed areas of public open space within the new development would be smaller, it would be possible for children to play safely there. Other recreational use could still take place in the fields beyond the appeal site which appear to be similarly accessible albeit that they are less visually attractive. For these reasons I have given little weight to the existing recreational use of the appeal site other than of the footpath.

Planning contributions – Leicestershire Police

44. Leicestershire Police (LP) has demonstrated adequately that the sums requested would be spent on a variety of essential equipment and services, the need for which would arise directly from the new households occupying the proposed development. It would be necessary, therefore, in order to provide on-site and off-site infrastructure and facilities to serve the development commensurate with its scale and nature consistent with LP Policy IMP1. The planning contribution would also enable the proposed development to comply with the Framework's core planning principle of supporting local strategies to improve health, social and cultural well being and delivering sufficient community facilities and services to meet local needs²⁷.
45. In respect of compliance with CIL Regulation 123(3) the proposed spending has been apportioned to individual projects and procurement, such as property adaptation and a contribution towards a vehicle, in order to ensure no need for the pooling of contributions. In addition a clause of the undertaking which, in requiring written confirmation prior to payment that it would only be spent where there were no more than four other contributions, would provide a legal mechanism for ensuring full compliance with Reg. 123(3).
46. Evidence was submitted in the form of two maps²⁸ with types of criminal incidents plotted on them. The first of these shows that there were several burglaries and thefts in the housing area adjacent to the appeal site during the

²⁵ APP/G2435/W/15/3005052

²⁶ Inquiry Document 28

²⁷ The Framework paragraph 17

²⁸ Inquiry document 20

year up to July 2014. The second map covers a larger area, this time in Blaby, and indicates a steady rate of incidents, mainly forms of stealing, in all types of residential area. I have no reason to believe that levels of crime differ significantly between Hinckley/Burbage and Blaby.

47. I consider this to be a no less realistic and robust method of demonstrating the criminal incidents likely to arise in a specific area than the analysis of population data which is normally used to calculate the future demand for school places. The evidence gives credence to the additional calls and demands on the police service predicted by LP²⁹.

Planning contributions – Leicestershire County Council

48. The appellant is not challenging the proposed contributions for services provided by Leicestershire County Council (LCC) apart from those for the civic amenity site and library.
49. The nearest civic amenity site to the proposed development is that at Barwell. This site has a capacity to hold 162 tonnes of waste at any one time. During particularly busy periods, such as May bank holidays, this can be significantly exceeded leading to containers being full and even the site being closed. The proposed development would create additional demand for the facilities of this site and I agree that a financial contribution towards measures to increase its capacity, proportional to that demand, would be necessary and reasonable. The identified project would be a canopy to protect an additional storage area from the weather, the cost of which would require further S106 contributions. At the current time there was, potentially, only one other payment likely to be made to this project and thus a contribution from the proposed development would comply with CIL Reg. 123(3).
50. The requested contribution for the library would be put to purchasing a public access computer. There are currently four such computers at Burbage library falling short of the government's advisory 0.6 per 1000 population which equates to nine. Library computers are used not only to give public access to digital sources but also to teach computer skills to members of the public. To my mind it is likely that a majority of the new households would have access to a computer at home. I do not consider, therefore, that a need for more public computers at Burbage library arising from the proposed development has been demonstrated.
51. My overall conclusion on planning contributions is that those requested by LP and by LCC for the civic amenity site would be necessary to make the development acceptable in planning terms and would meet the other tests set out in the Framework³⁰. In those respects the submitted planning obligation carries significant weight. The contribution sought for Burbage library would not.
52. Of the other appeal decisions which have been drawn to my attention by LCC in support of their requested contributions those at Fairway Meadows³¹ and land north of Bill Crane Way³² do not deal with library contributions in any detail.

²⁹ M Lambert Proof of Evidence, pp 11 & 12

³⁰ the Framework paragraph 2004

³¹ APP/F2415/A/14/2217536

³² APP/F2415/A/12/2179844

Although the inspector at the Workhouse Lane appeal³³ found that LCC had provided a clear and detailed analysis of capacity and requirements to justify the amounts sought, including for libraries, as I am not aware of the circumstances of that case I cannot draw any helpful comparisons with it.

Overall Planning Balance and Conclusions

53. I have found that there is a five year supply of housing land in the Borough at this time; relevant policies for the supply of housing are not, therefore, considered out-of-date. In these circumstances it is not necessary for me to determine which those policies are. The proposed development would not protect or preserve the open landscape to the east of Burbage which, whilst not specifically designated, is an important setting for the village and separates it from the M69 corridor.
54. The benefits of the proposed development include the provision of market and affordable housing in an area where the latter is much needed. The site is also close to the village centre, where there are local services, and within easy reach of Hinckley town centre by public transport. New public open space would be created and there would be other social and economic benefits such as additional support for local facilities and businesses. Nonetheless, these benefits are not sufficient to outweigh the harm to the landscape. I do not agree that the proposal would improve access to the countryside.
55. I am aware that Burbage is part of Hinckley Sub Regional Centre and that the CS strategy is that the majority of housing will be located in and around it. The positive aspects of the scheme, including the benefits referred to above and also factors such as the lack of harm to ecological interests or the living conditions of nearby occupiers, make it consistent with several CS policies, as will be the case with the vast majority of proposed development. Since this proposal is clearly contrary to CS Policy 4, which is most relevant to proposals in Burbage and thus most important in this case, compliance with other, more general policies carries little weight. The proposed development would therefore be contrary to the development plan as a whole. I have taken into account all the matters raised but found no compelling arguments to allow the appeal.
56. For the reasons given above I conclude that the appeal should be dismissed.

Siân Worden

Inspector

³³ APP/K2420/A/13/2202989

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Thea Osmund-Smith of Counsel

She called

Andrew Murphy BA(Hons)

MSC MRTPI

Dr David Hickie BSc(Hons)

MA PhD CMLI CEnv MIEMA

IHBC

Justin Gardner

Stansgate Planning Consultants Ltd

David Hickie Associates

Justin Gardner Consulting

FOR THE APPELLANT:

Christopher Lockhart-Mummery QC

He called

Robert Thorley BA(Hons)

DipTP MRTPI

Gary Holliday

Instructed by Bilfinger GVA

Director, Bilfinger GVA

FPCR Environment & Design Ltd

FOR THE FIRST RULE 6 PARTY:

Nina Pindham of Counsel

She called

Martin Lambert

Leicestershire Police

FOR THE SECOND RULE 6 PARTY:

Andrew Cross and Alex Strickland

They called

Andrew Tyrer

Leicestershire County Council

INTERESTED PERSONS:

Martin Preston

Simon Straker

Richard Causon

Roger Goodger

Mary Sherwin

Brent Watson

Beth Watson

Nicola Holloway

Mary Tarney

Local residents also speaking on behalf of
Sherborne Road Residents' Group

Local residents speaking for themselves and,
in some cases, other residents of the area.

DOCUMENTS

- 1 Extracts from *The Police and Crime Plan & Leicestershire Police's response to the funding challenge*.
- 2 Minor corrections to Rob Thorley's proof of evidence
- 3 Committee report on Barwell SUE
- 4 Appeal decision APP/X0360/A/13/2209286 - extract
- 5 Appeal decision APP/L2440/A/14/2209286
- 6 High Court Challenge Judgement re Banbury Road, Adderbury 3.2.2015
- 7 Planning Committee 11.11.2014 minutes re appeal site
- 8 Schedule of contributions claimed in H&B district – superseded
- 8a Library and Civic Amenity contributions
- 8b Relevant S106 contributions claimed in H&B district since 6.4.2010 – agreed with BC
- 8c Library and Civic Amenity contributions - updated
- 8d Email from A Tyrer to R Thorley re Education Contributions in Burbage 10.2.16
- 8e Note from H&B BC re CIL compliance
- 8f Email from S Bowler to A Tyrer re allocation of contribution 10.2.16
- 8g Email from M Lambert to S Atha re joint CIL compliance statement 10.2.16
- 9 Email from M Lambert to R Thorley re Draft response to GVA letter 26.11.15; letter from R Thorley to M Lambert 18.11.15; schedule of contributions in Leicestershire.
- 10 2 photos of the landscape in the vicinity of the Ratby site
- 11 Ratby site - proposed layout
- 12 Extract from the GVLIA 3rd edition
- 13a Note from H&BBC re large sites challenged by R Thorley
- 13b Agenda of Developer Forum on Earl Shilton SUE – 6.11.15
- 14 Observations of Burbage Parish Council – relationship of Burbage Neighbourhood Development Plan to appeal.
- 15 Statement of Common Ground November 2015
- 16 Judgement – Wainhomes (South West) Holdings Ltd & Sec of State for Communities and Local Government, 25.3.13
- 17 Judgement – Phides Estates (Overseas) Ltd & Sec of State for Communities and Local Government & Shepway District Council & David Plumstead, 26.3.15
- 18 Extract from final report of H&B Council's Earl Shilton and Barwell Area Action Plan, 4.8.14
- 19 Judgement – South Northamptonshire Council & Sec of State for Communities and Local Government & Barwood Land and Estates Ltd, 10.3.14
- 20 Covering email and maps showing recorded crime incidents, 3.12.15
- 21 Potential range for FOAN
- 22 H&BBC report on setting up of the housing development company.
- 23 Judgement – Bloor Homes East Midlands Ltd & Sec of State for Communities and Local Government & H&BBC, 19.3.14
- 24 Appeal decision APP/X2410/W/15/3007980
- 25 Appeal decision APP/G2435/W/15/3019451
- 26 Appeal decision APP/G2435/W/15/3005052
- 27 Appeal decision APP/X2410/W/15/3004925
- 28 H&BBC committee report re land to the south west of Lutterworth Road, Burbage
- 29 Judgement – Anita Colman & Sec of State for Communities and Local

- Government & North Devon District Council & RWE Npower Renewables Ltd, 9.5.13
- 30 Secretary of State's decision on inspector's recommendation re Land off Mountsorrel Lane, Rothley, Leicestershire, 8.4.14