



## Appeal Decision

Hearing Held on 7 December 2017

Site visit made on 7 December 2017

**by H Butcher BSc (Hons) MSc MRTPI**

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

**Decision date: 18<sup>th</sup> December 2017**

---

**Appeal Ref: APP/Q3115/W/17/3171766**

**Newington Nurseries, Newington Road, Stadhampton, Oxfordshire, OX10 7AW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr and Mrs Hendry against South Oxfordshire District Council.
  - The application Ref P16/S3988/O is dated 30 September 2016.
  - The development proposed is the demolition of existing structures and erection of up to 21 dwellings and associated infrastructure including means of access.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of existing structures and erection of up to 21 dwellings and associated infrastructure including means of access at Newington Nurseries, Newington Road, Stadhampton, Oxfordshire, OX10 7AW in accordance with the terms of the application, Ref P16/S3988/O, dated 30 September 2016, subject to the conditions in the attached schedule.

### Preliminary Matter

2. The application was submitted in outline with only access to be determined at this stage. A site layout is also before me but this is for illustrative purposes only.

### Main Issue

3. Having regard to the Council's Statement of Case, which sets out the reasons why the Council would have refused the application had it been in a position to do so, I consider the main issue in this appeal is whether the proposal complies with local and national policy in respect of the location of new housing, having particular regard to access to local services and facilities, and local employment opportunities.

### Reasons

#### *Access to services*

4. Newington Nurseries is located to the south of the village of Stadhampton and was, until recently, used for growing and selling plants and trees. There are various buildings on the site which include a large glazed building, sheds and a poly tunnel. Immediately to the north of the site are paddocks on which

outline planning permission was granted at appeal for up to 65 dwellings (Ref APP/Q3115/W/15/3035899) and a reserved matters application in respect of this has been submitted to the Council.

5. Stadhampton has a Budgens (attached to a petrol station), a farm shop, primary school with pre-school, two public houses and a church. In the centre of the village there is also a bus stop which operates a relatively regular service to Oxford. These are all within easy walking distance of the appeal site, save that there is no footway. The proposal, however, includes the provision of a footway to be secured by way of a unilateral undertaking (UU). The Council raised no objection with respect to the proposed footway.
6. Securing a footway to the village would mean the development would successfully integrate with Stadhampton and would provide good access to local essential services for future residents without their being entirely dependent on the use of a private car. I therefore find no conflict with the relevant provisions of Policies D1 of the South Oxfordshire Local Plan (2011) (LP) and CSM1 and CSQ3 of the South Oxfordshire Core Strategy (CS) which require new development to be properly integrated with existing development in order to provide accessibility to local services and ease of use by all modes of transport.

#### *Local employment*

7. The nursery at the appeal site traded for some 20 years employing two full time workers (Mr and Mrs Hendry) and two part-time seasonal workers. Policy E6 of the LP sets out that proposals for the redevelopment or change of use of redundant land or buildings in employment use to non-employment uses will only be permitted if the existing use is no longer economically viable, and the site has been marketed at a reasonable price for at least a year for that and any other suitable employment or service trade use. This is consistent with the National Planning Policy Framework (the Framework) which supports the rural economy.
8. The nursery has been marketed for approximately nine months which is less than the year specified by policy E6. Furthermore, in that time a business which grows and sells tropical spice plants and orchids has shown interest in the site. A number of other potentially suitable employment uses have also come forward which include an antique dealer, landscaper, dog sitter and a carpenter. Whilst these might need planning permission they could, nevertheless, prove to be suitable alternative employment uses at the appeal site.
9. It has therefore not been adequately demonstrated that the site is no longer suitable for the existing use or any other suitable employment or service trade use in line with Policy E6. I therefore conclude that the proposal would result in the loss of local employment opportunities at the appeal site.

#### *Other matters*

10. The UU before me, received after the hearing, makes a commitment not only to providing a footway as set out above, but also to providing at least 40% of the total number of dwellings as affordable housing in line with Policy CSH3 of the CS. I return to this in my overall planning balance below.

11. The UU also provides for contributions towards provision for recycling bins (£3,570.00) and street naming (£268.00). In respect of recycling bins, Policy D10 of the LP requires that proposals make adequate provision for the handling of waste. Furthermore, Policy CSI1 of the CS requires that new development be supported by appropriate on-site infrastructure. On the evidence before me I am satisfied that a contribution towards recycling bins is necessary, directly related to the development, and fairly and reasonably related in scale and kind. However, in respect of the contribution towards street naming I have not been supplied with sufficient evidence to determine if this meets the relevant tests in respect of planning obligations so I am unable to take this into account.
12. During the hearing my attention was drawn to Ascott Park which is a Grade II Listed garden. This lies 1km east of the village of Stadhampton and has no adjoining boundaries with the appeal site. Consequently I find no harm to the setting of this Listed garden as a result of the development.
13. I acknowledge there is an issue with localised flooding in the vicinity of the appeal site. However, the Council are satisfied this could be overcome with a suitable drainage scheme and I find no reason to disagree. The Parish Council and local residents raise overdevelopment as an issue and resulting harm in terms of increased traffic, harm to the character and appearance of the area and increased pressure on services. However, I have seen no firm evidence to support these concerns nor has the Council raised these matters. On all that I have seen and heard I therefore find no harm in this respect.
14. Notwithstanding the above, there would be increased demand placed on local primary schools and there is insufficient capacity at this time to meet the demand from the development. However, this would be mitigated through the collection of a Community Infrastructure Levy contribution.

*Overall planning balance*

15. Both parties agree that the appeal site is not identified for residential development in the development plan as it is located outside the built up limits of Stadhampton. It is also agreed that the Council cannot demonstrate a five year housing land supply and that there is a significant shortfall in this respect.
16. The Framework is a material consideration in planning decisions. At paragraph 49 it states that housing applications should be considered in the context of the 'presumption in favour of sustainable development' and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Paragraph 14 of the Framework sets out the 'presumption in favour of sustainable development' and the fourth bullet of this states that where relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It is therefore necessary for me to balance the benefits of the proposal against the adverse impacts.
17. As set out above I have identified the adverse impact of a loss of local employment opportunities at the appeal site. However, this harm is tempered by the modest number of employment positions likely to be available given its size and employment history. Nevertheless, this still represents an adverse

impact. I therefore attach modest weight to this and the resulting conflict with the development plan and the Framework.

18. I now move on to the benefits of the proposal. Given the Council's significant shortfall in housing supply that the proposal would create up to 21 houses including a contribution towards affordable housing would constitute a substantial benefit.
19. There are also other benefits such as local investment. However, from all that I have read and heard there is nothing to suggest that Stadhampton is struggling in this regard. Indeed the local Budgens has recently been extended. This therefore limits the weight I can attach to this benefit. Similarly any benefit in terms of employment during the construction phase can only be given limited weight as this would be temporary.
20. The existing Leyland Cypress hedge which surrounds much of the site is of limited visual value. This would be replaced with a housing development and some small areas of open space based on submitted indicative plans. I find this to be neither a benefit nor an adverse impact given that the development would constitute a continuation of a ribbon of development along Newington Road. Similarly I find a neutral impact in terms of the ecology and biodiversity of the site for the same reasons. I note a play area may be provided but this would likely be of benefit only to future residents.
21. Taking the above points together I find that the modest weight I have attached to the adverse impact of the development in terms of a loss of local employment opportunities at the appeal site is outweighed by the significant benefit of additional housing and affordable housing which the development would provide along with the limited benefits from additional local investment and temporary construction jobs created. I therefore conclude that the adverse impacts of the development do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently I find that the proposal benefits from the 'presumption in favour of sustainable development' as set out in paragraph 14.

### *Conditions*

22. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. I have also limited the number of pre-commencement clauses to those cases where this is essential for the condition to achieve its purpose.
23. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. The time limits I have imposed are as agreed between the main parties in order to bring about the development in a timely manner given the district's shortfall in housing supply. I have also included a condition specifying the relevant plans as this provides certainty.
24. A condition limiting the development to 21 dwellings is necessary as that is what was applied for and the basis on which this appeal was determined. It is not possible to simply rely on the description of development to control, restrict or limit a development.
25. To ensure adequate drainage of the site I have included conditions relating to foul drainage and the implementation of a sustainable drainage system. I have also included conditions to deal with any contamination of the site in the

interest of the living conditions of future occupants, and any archaeology for heritage reasons.

26. In the interest of highway safety I have included conditions relating to vision splays, the construction of the access, and a requirement that no surface water from the development be discharged onto any highway. For the same reason I have also conditioned the submission of a Construction Method Statement but have removed the requirement for a before commencement highway condition survey as any damage to the highway as a result of the development would be a matter between the parties involved. Finally, given the location of the site and to promote sustainable modes of transport it is necessary to require Travel Information Packs to be supplied to the first residents of each dwelling in the development.
27. Conditions in respect of affordable housing or the provision of a new footway along Newington Road are not necessary as both matters are dealt with in the submitted UU. I am unable to require compliance with the new national technical standards in respect of accessible and adaptable dwellings as I have not been referred to any specific policy or supplementary planning document relating to such matters. Finally, the final mix of dwellings and matters pertaining to Secured by Design can be agreed at reserved matters stage.

### **Conclusion**

28. My findings in respect of paragraph 14 of the Framework, along with any other material considerations, indicate that planning permission should be granted notwithstanding the conflict with the development plan and the Framework that I have found. The appeal is therefore allowed.

*Hayley Butcher*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mark Doodes

Mark Doodes Planning

### FOR SOUTH OXFORDSHIRE DISTRICT COUNCIL:

Tracy Smith

Principle Planning Appeals Officer

### INTERESTED PERSONS:

Graham Howlett

Resident of Newington

Mike Black

Resident of Newington

Peter Ablett

## DOCUMENTS

- 1 Site Location Plan 3605-001 Rev A
- 2 Signed Statement of Common Ground
- 3 Updated list of the Council's conditions
- 4 Information on Spicetotic Plants

## **Schedule of Conditions**

- 1) Details of the layout (including internal access arrangements), scale, appearance, and landscaping (to include a landscape management plan) (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location, Proposed Site Access, Swept Path Assessment, Topographical Survey, Tree Survey and Constraints Plan.
- 5) The development hereby permitted shall be limited to no more than 21 dwellings.

- 6) None of the dwellings hereby permitted shall be occupied until foul drainage has been provided to serve the development in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 7) No building hereby permitted shall be occupied until a sustainable drainage system has been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details shall include:
  - i) Full details of a sustainable surface water drainage system based on ground permeability tests and a consideration of groundwater flooding issues including historic events;
  - ii) Design calculations related to the existing and developed site runoff with appropriate climate change allowance, storage/attenuation areas sizing and suitable off-site drainage outfalls;
  - iii) Exceedance flood flow routing;
  - iv) Timescale for the works including phasing, and;
  - v) A future management and maintenance plan for the sustainable drainage system features including arrangements for any off-site watercourses which are required to ensure its efficient functioning.

The sustainable drainage system shall thereafter be managed and maintained in accordance with the approved details.

- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority.
- 9) No demolition/development shall take place until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Written Scheme of Investigation.
- 10) No dwelling hereby permitted shall be occupied until vision splays measuring 2.4m by 120m in both directions have been provided. The vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.9m as measured from the carriageway level.

- 11) No dwelling hereby permitted shall be occupied until the proposed means of access onto Newington Road has been formed, laid out and constructed in accordance with the local highway authority's Residential Road Design Guide. The access shall be permanently retained thereafter.
- 12) No surface water from the development shall be discharged onto any highway.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
  - i) The parking of vehicles of site operatives and visitors;
  - ii) Loading and unloading of plant and materials;
  - iii) Storage of plant and materials used in constructing the development;
  - iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) Wheel washing facilities;
  - vi) Measures to control the emission of dust and dirt during construction;
  - vii) A scheme for recycling/disposing of waste resulting from demolition and construction works;
  - viii) Movement times, routing, road closure and traffic management measures for construction traffic, and;
  - ix) Temporary access arrangements.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 14) Prior to first occupation of the dwellings hereby permitted a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.