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## Appeal Decision

Site visit made on 20 June 2017

**by Paul Singleton BSc (Hons) MA MRTPI**

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

**Decision date: 13 July 2017**

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**Appeal Ref: APP/Z2830/W/17/3169355**

**Land off Church Street (opposite Recreational Hall), Silverstone NN12 8 UJ**

- 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 Linnell Bros Ltd against the decision of South Northamptonshire District Council.
  - The application Ref S/2016/2578/MAO, dated 26 September 2016, was refused by notice dated 15 December 2016.
  - The development proposed is outline application for 30 dwellings including the formation of a new access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with all matters other than access reserved for subsequent approval. I have considered the appeal on this basis.
3. The Council's statement records that the decision notice did not cite all the relevant policies of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (JCS) and states that specific conflict should have been identified with Policies SA, S3, S5 and R1 of that plan. These policies were referred to in the officer report and have been addressed in the appellant's statement. I am satisfied that no disadvantage has been caused to the appellant by the omission of these policy references from the decision notice.

### Main Issues

4. The main issues are:
    - (a) Whether the proposal would result in a sustainable pattern of development having regard to the Council's approved development strategy and the site's location and accessibility to local facilities and services;
    - (b) The effect on the character and appearance of the area and the setting of the village;
    - (c) Whether sufficient information has been submitted to demonstrate that a satisfactory drainage scheme could be provided without increasing the risk of flooding; and
    - (d) Whether the proposal makes adequate provision for any additional need for infrastructure, services and facilities arising from the development.
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## Reasons

### *Sustainability*

5. The West End area is a settlement of significant size in its own right and is physically separated from the main part of Silverstone village by an expanse of open agricultural land of which the appeal site forms a part. The site lies outside of the built up area of both of these settlements and, in my view, is correctly regarded as being within the open countryside. The site also lies outside of the village confines or settlement boundary of both settlements as defined in the South Northamptonshire Local Plan 1997 (Local Plan).
6. The appellant contends that settlement boundaries are a blunt tool for the control of development in rural areas and that their use conflicts with the positive approach required under paragraph 14 of the National Planning Policy Framework (Framework). However, the fact that a policy adopts an approach which is not specifically referenced in the Framework does not necessarily render that policy inconsistent with that document.
7. Insofar as it relates to the open countryside the central purpose of saved Local Plan Policy H6 is to conserve the rural environment from unnecessary intrusions (Local Plan paragraph 2.23). This is consistent with the Framework's aim of taking account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and the role of plan making in determining where new development should best be located. Although part of a Local Plan that was adopted in 1997, Policy H6 also has a continued role in helping to deliver the development strategy set out in the JCS.
8. The JCS was adopted in December 2014 after having been the subject of an examination in public and been found sound and consistent with the Framework. The JCS recognises the need for limited development in rural areas but seeks to ensure that the scale of such development is consistent with the objective of meeting local needs and supporting local services. The overall housing provision, set out in Policy S3, includes an allowance for the provision of about 2,360 new homes in the South Northamptonshire Rural Areas. Policy R1 sets out a spatial strategy under which development in these areas is to be guided by a rural settlement hierarchy. The allocation of villages to a specific level within that hierarchy is to be undertaken through the preparation of Part 2 Local Plans so that the hierarchy in each area can be tailored to reflect the specific local circumstances.
9. The JCS states that Part 2 Plans should consider the need for site allocations and determine whether boundaries showing the village confines should be defined. It clearly contemplates that such boundaries could form part of the development strategy where considered appropriate (paragraph 16.9). Paragraph 16.9 goes on to state that, until the rural settlement hierarchy has been defined within the Part 2 Local Plans, the existing saved Local Plan policies will apply. Both Policy H6 and the related village confines boundaries do, therefore, have a continuing validity until such time as a Part 2 Local Plan for South Northamptonshire is adopted. This approach has been followed by the Inspectors who determined the appeals relating to Abbey Road, Syresham (APP/Z2830/W/14/3000537) and Banbury Lane, Pattishall

(APP/Z2830/W/16/3157712) in November 2015 and January 2017 respectively.

10. The appellant has drawn my attention to a further decision, issued in April 2017, relating to a site in Blisworth in which the Inspector concluded that saved Policy H6 should not be regarded as being up-to-date and that, as the Part 2 Local Plan is at a relatively early stage of preparation, the weight than can be attached to JCS Policy R1 is somewhat reduced. As the Council has sought leave to mount a legal challenge to that decision I am unable to give it significant weight in my consideration of the appeal. In any event, I agree with the Inspector in the Syresham appeal that, although the village hierarchy has yet to be established, Policy S1 provides a clear strategic framework for the distribution of new development and Policy R1 sets out clear criteria against which proposals in the rural areas can be considered.
11. My observations on my site visit support the Council's view that, in its existing use and condition, the appeal site forms part of a strategic gap separating the main part of the village from West End. The loss of the open land within the site and its development as proposed would substantially erode that existing separation and result in a significant adverse change in the form and character of both Silverstone village and West End. If permission was granted for the appeal proposal it would be more difficult for the Council to resist future proposals for the development of the open land to the east which also forms part of that strategic gap.
12. Concerns with regard to the availability of safe and suitable pedestrian links form a separate reason for refusal but this matter is fundamental to the question of whether or not the proposal would result in a sustainable pattern of development. The Council accepts that Silverstone village is a sustainable location in terms of the services and facilities available within it. I concur with that assessment. However, with the exception of the recreational hall and related sports/play facilities, the site is remote from the main services and facilities which mainly focused around the High Street. In my assessment there is no safe and suitable route which would enable future occupiers of the proposed houses to gain easy access to those facilities on foot.
13. The informal path alongside the carriageway on the north side of Church Street runs for only a short distance between the pedestrian exit from the recreational hall site and Rookery Cottage. The path is narrow and its uneven and unsurfaced condition renders it unsuitable for use by anyone in a wheelchair, pushing a pram or pushchair, or using a trolley to carry their shopping. Beyond Rookery Cottage, pedestrians have to walk in the carriageway through two bends where forward visibility is poor and traffic speeds are relatively high. Neither part of this route to the village centre would provide an adequate level of safety for pedestrians. As accepted by the appellant the limited carriageway width available means that there is no realistic opportunity to provide a new, segregated footway along this stretch of Church Street.
14. The application proposed that the future residents would be able to walk to the village centre by following a route through the adjacent Pocket Park, south along West End and east along an existing Public Right of Way (PROW RX20) across the fields to the back of the High Street. I consider that this proposed route is inherently unsuitable for such use.

15. The winding paths through the Pocket Park have been designed for recreational use and would not provide the direct routes that most users would expect to use to get to their destination in the shortest possible time. PROW RX20 follows an uneven and unsurfaced path which runs between Nos. 41 and 43 West End and across agricultural fields. This path is likely to be wet and muddy after any prolonged period of wet weather. Users also have to cross a narrow bridge over the stream and a stile. The route would not be easily accessible by wheelchair users or those with a pram or pushchair. Moreover, as both this and the paths through the Pocket Park are unlit and are not overlooked to any reasonable degree they would not provide for an adequate level of safety for regular pedestrian use. The suggested route would not, therefore, provide a suitable or safe means by which the future occupiers of the development could walk to and from the local schools, shops and the other facilities in the village centre.
16. An additional plan, lodged with the appeal, indicates a possible connection from the site to PROW RX20 across other land within the appellant's ownership. As this plan was not before the Council when the application was determined and has not been consulted upon I am unable to give it any significant weight. However, although shorter, this revised route does not appear to be materially different either in terms of its suitability for use by a range of users or the level of safety that it would provide.
17. Given the poor quality of the available and proposed routes there is little likelihood that future residents of the proposed development would choose to access the shops, schools, bus services and other facilities in the village centre on foot. I note that the Council has permitted other, smaller scale developments at West End without the provision of new pedestrian links to the village centre. However, the construction of 30 new homes in a location where the occupiers would be dependent on private car journeys to meet their daily needs does not represent a sustainable form of development. Because it would not provide a satisfactory means of pedestrian access the proposal conflicts with saved Local Plan Policy G3 (b) and with paragraph 32 of the Framework which requires that account should be taken of whether safe and suitable access can be achieved for all people.
18. I find that the proposal conflicts with Clause B, Part 2 of JCS Policy R1 because it would involve the development of a site which forms an important gap between the village centre and West End and which is, therefore, of particular significance to the form and character of the village. It also conflicts with Clause G because the site is outside of the existing confines of the village. The lack of suitable and safe pedestrian links and the likely dependence by future residents on car borne trips also places the proposal in conflict with requirement in Clause F that proposals should promote sustainable development.
19. Although the JCS provides for some development in the rural areas Part D of Policy S1 makes it clear that this should be limited in scale and that the emphasis should be on the various detailed matters set out in that policy. The development of the strategic gap between the two parts of the village would be inconsistent with the policy's objective of enhancing and maintaining the distinctive character and vitality of rural communities and with that of respecting the quality of tranquillity in this part of the settlement. Neither

- would the proposal support the objective of strengthening rural enterprise and linkages between settlements and their hinterlands.
20. The development proposed at Silverstone Circuit will create new employment opportunities but this is to be built in phases over a number of years. The Council's evidence is that there are number of existing and proposed employment and housing development opportunities that need to be considered collectively to support that investment. Given that Silverstone has already delivered 78 new dwellings since 2011 and that permission has been granted for a further 231 there is no evidence that a lack of local housing is likely to hold back the development planned at the Circuit.
  21. Decisions as to whether or not additional housing allocations are needed in Silverstone are best made through the Part 2 Local Plan and work on the preparation of that plan is already underway. In that context, and given that the indicated rural housing requirement of 2,360 dwellings has already been met through completions and commitments since 2011, there is no pressing need to grant permission for housing development on an unsustainable site.
  22. Although it is possible that some future residents of the development could gain employment at the Circuit, the relative infrequency of the connecting bus services makes it likely that the resulting journeys to work would mainly be by car rather than public transport. Given that likelihood and the relatively small number of dwellings proposed the appeal scheme would not be likely to make a significant contribution to meeting the fourth objective under Part D of shortening journeys and facilitating access to jobs and services. Accordingly, I find that the proposal does not comply with JCS Policy S1 and that it would fail to support the approved development strategy and distribution of housing within the District as set out in Policy S3.
  23. The proposal does not fall within any of the exceptions under Local Plan Policy H6 and conflicts with that policy and its objective of conserving the rural environment from unnecessary intrusions. For the same reason the proposal also conflicts with Local Plan Policy EV2.
  24. As the proposed housing requirement in the rural areas has already been met the final part of JCS Policy R1 is engaged. The proposal does not meet any of the criteria set out in that part and conflicts with its provisions. The Inspector who determined the Blisworth appeal identified a residual need for 55 dwellings in the rural areas but, in view of the Council's application for leave to challenge that decision, that conclusion cannot be relied upon at the present time. However, even if such a shortfall was shown to remain, that would not alter my conclusions that the proposal conflicts with the rest of Policy R1 and with Policies S1 and S3.

*Character and appearance*

25. The proposed development would visually be contained by hedgerows to the west and south but would result in the loss of a substantial part of the hedge along the site's frontage to Church Street. This forms part of longer section of hedge and intermittent trees extending for a considerable distance on the south side of the road and is matched by a similar hedge on the north side, although that is interrupted by the accesses to the recreational hall site. These boundary treatments form part of the important visual break between the two

built up areas and help to give this section of Church Street its distinctly rural character.

26. The replacement of so much of that existing hedge by a vehicular access and associated visibility splays that would open up views of the new estate road and some of the proposed houses would have a significant urbanising effect. It would erode the visual separation between the two parts of Silverstone and be detrimental to the rural setting and character of both settlements. The proposal conflicts with Local Plan Policy G3(A) as it would not be in keeping with the existing character of the locality.
27. I note the Council's concerns about the proposed density of development. However, as this is an outline proposal no judgement can be made at this stage as to whether the layout and design would be in keeping with the site's context and surroundings. Hence, I do not find any conflict with Local Plan Policies G3 and EV1 or with JCS Policy H1 in this regard.
28. The proposal conflicts with the Silverstone Village Parish Plan and Design Statement (adopted 17 June 2017) which considers the site to form part of the 'Green Village Core' and 'Green Heart' of the village. The Parish Plan identifies the site as part of a strategic open space which should be protected in any future changes to the village confines and in the allocation of land for development. The appeal proposal gives rise to clear conflict with the objectives of that newly adopted plan.

#### *Drainage and flood risk*

29. The appellant accepts that insufficient information was provided with the application in regard to the proposed drainage scheme and has suggested that the requirement for further work could be dealt with by means of a planning condition. It is clear from the comments of the Lead Local Flood Authority that the Flood Risk Assessment and Drainage Proposals Report submitted in March 2017 does not provide all of the information needed to enable the Authority to come to a clear view as to the acceptability of the proposals or to conclude that there would not be an increased risk of flooding elsewhere. Without adequate information I am also unable to form a conclusion on that matter.
30. A revised Flood Risk Report, submitted on the 13 June 2017, is intended to address the concerns raised by the Lead Authority. Due to its late submission, and the detailed nature of the report and its appendices, there has been no opportunity for consultation on that revised information. I am, therefore, unable to give it any weight in the determination of the appeal.
31. In these circumstances the proposal conflicts with paragraph 103 of the Framework which requires that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. It also conflicts with JCS Policy BN7B, which requires that proposals should demonstrate that there is no increased risk of flooding to existing properties, and Local Plan Policy G3(M), which states that permission will normally be granted for proposals where the development provides for satisfactory foul and surface water drainage.

#### *Infrastructure and services*

32. The Council's adopted Supplementary Planning Document (SPD) on Developer Contributions sets out clear requirements in respect of affordable housing

provision and developer contributions relating to educational infrastructure, off site sports and recreation provision, and fire and rescue, refuse and recycling services. The Council also seeks planning obligations in respect of the future management of any sustainable drainage system on the site and for the recovery of its monitoring costs in ensuring that all of these obligations are discharged.

33. The appellant does not dispute the need for planning obligations in respect of these various matters and has submitted a draft Unilateral Undertaking (UU) with a view to securing those obligations. This draft was submitted on the 13 June 2017 and I have received no information from the Council as to whether or not the document meets its requirements in relation to these obligations.
34. The draft appears to include an error in Clause (10) which proposes that the Council covenant to undertake certain matters although, as the document is drafted as a UU, the Council would not be a signatory. In addition, the UU has been submitted as an unsigned and undated draft notwithstanding the clear guidance in the Procedural Guide as to the timescales for executing and sending a certified copy of such documents to the Planning Inspectorate.<sup>1</sup>
35. The provision of affordable housing and the securing of the educational and other contributions referred to above are necessary to make the development acceptable in planning terms and to ensure compliance with the development plan. The proposed obligations would therefore meet the relevant tests set out in paragraph 204 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. In the absence of a signed and completed UU or other means of securing those planning obligations the proposal conflicts with the development plan.

### **Other Matters**

36. The appellant has drawn my attention to developments in Silverstone which have either been granted permission by the Council or been allowed on appeal but I do not consider that any of these set a precedent in relation to the appeal proposal. The permissions in relation to the land north of The Paddocks (S/2009/0238/P) and at the junction of Towcester Road and Whittlebury Road (S/2009/0290/PO) were granted under the terms of the Council's Interim Rural Housing Policy which is no longer extant. The Catch Yard Farm development (APP/Z2380/A/12/2183859) was allowed on appeal prior to the adoption of the JCS and at a time when the Council was unable to demonstrate a 5 year housing land supply. Neither of those circumstances now applies.
37. An appeal decision issued in August 2013 (APP/T2405/A/13/2193758) on a site at Whetstone in Blaby district has also been referred to in order to indicate that the existence of a 5 year housing land supply does not preclude a grant of permission for sustainable development. Whilst I accept that principle, the circumstances in the Whetstone case were quite different to those in the current appeal, not least because that Inspector found no significant harm to the character and appearance of the countryside. It is also significant that Whetstone is designated as one of the 'non Principal Urban Areas' within the district with a minimum housing requirement of 365 dwellings which had not yet been met at the time of the decision.

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<sup>1</sup> The Planning Inspectorate Procedural Guide-Planning Appeals –England March 2016 – Annexe N (N.2.1).

38. The appellant contends that the appeal should be considered in light of the advice in paragraph 14 of the Framework that planning permission should be withheld only where there will be significant harm that demonstrably outweighs the benefits. However, the 'tilted balance' in favour of a grant of permission applies only where the development plan is absent, silent or out-of-date. That is not the case in relation to this appeal.
39. The proposal would contribute 30 new dwellings to the housing supply in the district. Both this contribution and the investment and employment generated by the construction of the development must be counted as benefits of the scheme. The appellant asserts that the provision of a pedestrian link to the Pocket Park would benefit the residents of West End by providing a safe pedestrian route to the recreational hall site. However, given that there are no direct paths through the Pocket Park and that a safe route, using the footway on West End and a short section of path on the south side of Church Street, already exists, that proposed route would not deliver any material benefit.

### **Conclusions**

40. For the reasons set out above I find that the proposal would lead to the loss of an important gap between the two parts of Silverstone village. I also find that it would result in an unsustainable form of development and cause significant harm to the character and appearance of the area and the rural setting of both parts of the village. It has not been demonstrated that an adequate drainage system could be provided without increasing the risk of flooding elsewhere or that adequate provision would be made to meet the additional need for infrastructure, services and facilities arising from the development. No benefits have been identified that would outweigh either the harm that would be caused or the resultant development plan conflict.
41. For these reasons, and having regard to all matters raised, I conclude that the appeal should fail.

*Paul Singleton*

INSPECTOR