



Appeal Decision

Inquiry Held on 10-13 & 17 October 2017

Site visit made on 9 & 17 October 2017

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 20 November 2017

Appeal Ref: APP/F2415/W/17/3167654

Land to the north of Oaks Road, Great Glen, Leicestershire LE8 9EG

- 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 Miller Homes Limited against Harborough District Council.
 - The application Ref 16/01501/OUT is dated 19 September 2016.
 - The development proposed is the erection of up to 170 dwellings, new access, landscaping and other associated infrastructure.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with all matters reserved except for access, and that is only in terms of the access to the site from Oaks Road rather than access matters within the site itself. The relevant plans are the Red Line Boundary Plan 02016-02 Revision A and the Access Junction Layout & Highway Works plan ADC1264/001 Revision E. The Illustrative Layout plan 02016-08 Revision D is simply illustrative but it is relied on by the appellant in seeking to demonstrate that 170 dwellings can be satisfactorily accommodated on the site and as such my references to the development scheme take this layout into account, albeit layout itself remains a reserved matter.
3. The Local Planning Authority (LPA) does not oppose the grant of permission and did not give evidence at the Inquiry, save to clarify its position on housing land supply, on prospective conditions and on the submitted S106 agreement (the S106). However, it is opposed by a group of objectors comprising various village residents and Great Glen Parish Council (the Rule 6 Party). Hence the main parties are the appellant and the Rule 6 Party in this case.
4. The S106 dated 16 October 2017 and signed by the owners of the site, the appellant, the LPA and the County Council obliges the owners to provide no less than 40% of the dwellings to be erected on the site as affordable homes; to lay out and maintain on-site public open space in perpetuity; the payment of moneys to the LPA in terms of an NHS contribution to improved doctor's space in Great Glen, a community centre contribution, an extension to the Great Glen recreation ground pavilion, a cemeteries and burial grounds contribution and off-site greenways (footpaths etc) contribution; and the payment of moneys to the County Council as education and highway authority in terms of a

contribution towards the improvement at educational facilities at Great Glen St Cuthbert's Church of England Primary School and at Beauchamp College or relevant other secondary school facility, a contribution to library facilities in the area, and contributions towards traffic regulation order expenses, travel packs and bus passes, additional bus services and an obligation to enter into a Highways Agreement for the required off-site highway works. All these obligations would meet the relevant requirements of the *Community Infrastructure Levy Regulations 2010*. However, since the S106 is conditional upon the grant of planning permission there is no need for me to consider it in any further detail.

5. Following the close of the Inquiry the LPA granted planning permission for a second identical application with the same conditions it suggested should be imposed on this proposal.¹ The only difference between the two applications is that some of the supporting documentation submitted with the 2017 application has been updated; in particular there was a new Landscape and Visual Impact Assessment (LVIA) by Pegasus dated April 2017, which superseded the Landscape and Visual Appraisal by Hankinson Duckett Associates dated September 2016. This LVIA was adduced in the appellant's evidence.²

Main Issues

6. The main issues are whether:
 - (a) the LPA can demonstrate a five year supply of housing (5YHLS) and the consequent effect on the weight to be given to any conflict with development plan policies;
 - (b) the proposed off-site highway works at the Oaks Road/Stretton Road junction would result in severe residual cumulative highway safety and traffic impacts; and
 - (c) the proposed development would result in significant harm to the local landscape.

Reasons

Housing Land Supply

7. The LPA considers it has a 4.45 years HLS³ whereas the Rule 6 Party considers there is a 5.05 years HLS⁴. The essential difference between the two main parties is that the Rule 6 Party argues that the LPA has perversely and wrongly altered the annual housing requirement for the last six years (1 April 2011 to 31 March 2017) by introducing a new and much higher annual requirement in hindsight, which inflates the shortfall of unmet need. The Rule 6 Party also states that the LPA's decision to deal with this shortfall within the current five year period (the Sedgfield methodology) is also wrong and that it has failed to discharge its duty to co-operate.

¹ 17/00579/OUT, received 6 April and granted 19 October 2017 (CD49)

² Appendix 7 of Mr Peachey's evidence

³ As set out in HDC's 5 Year Housing Land Supply statement 1 April 2017 to 31 March 2022 dated 12 July 2017 (CD43) and clarified at the Inquiry by Mr Brown

⁴ As set out in Mr Ford's evidence, Appendix A dated 22 September 2017

8. Paragraph 47 of the National Planning Policy Framework (NPPF) states that to boost significantly the supply of housing LPAs should 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 area as far as is consistent with the policies in the NPPF. It also says that LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% moved forward from later in the plan period (or 20% where there has been a record of persistent under delivery of housing) to ensure choice and competition in the market for land.
9. The development plan comprises the adopted Harborough Core Strategy (CS) adopted in 2011 and the 'saved' policies of the Harborough District Local Plan (LP) adopted in 2001. The CS's housing requirement derives from the now revoked Regional Spatial Strategy (RSS), which does not reflect the NPPF requirement to meet OAN. Whilst the Rule 6 Party is correct in stating that OAN is not necessarily the same as the housing requirement in any particular case, the expectation is clear that it should be unless it is inconsistent with policies in the NPPF. The RSS housing requirement set out in the CS took into account constraints to development and so does not reflect the full OAN as required by NPPF paragraph 47. Reliance on such a constrained housing requirement is essentially precluded by judicial authority on this matter.⁵
10. I understand the Rule 6 Party's frustration that a planned housing requirement set out in the CS can be overridden by a new requirement that was unknown when it was adopted in 2011. I acknowledge that such a system appears to be counter-intuitive and contrary to the plan-led system. But the NPPF is clear in this regard and it is difficult to see how the supply of housing can be significantly boosted if there is no requirement to deliver the full OAN in an area. Whilst it is for the Inspector examining the emerging new Local Plan (ELP) to determine whether Harborough's housing requirement should or should not mirror its OAN, national policy suggests that it should.
11. The LPA's figures in its HLS calculation derive from the Leicester and Leicestershire Housing and Economic Needs Assessment (HEDNA) by GL Hearn, dated January 2017. This recommends a total housing requirement of 10,640 dwellings for Harborough District between 2011 and 2031, or 532 dwellings per year. The shortfall is the difference between the requirement from the base date of the HEDNA, which also coincides with the base date of the ELP, and the start of the current 5YHLS calculation (1 April 2017): 734 dwellings as set out in Table D of the LPA's HLS statement.
12. The Rule 6 Party argues that this overestimates the shortfall by 627 dwellings because the annual requirement figures for the last six years should be based on the requirement that was in place at those particular time periods. However, as set out above, the HEDNA and ELP base date is 1 April 2011 and the HEDNA requirement of 532 dwellings per year must therefore start then, or it would not reflect OAN in the District.
13. The Rule 6 Party criticises the LPA for applying the contemporary housing requirement figures to calculate whether a 5% or 20% buffer should apply to the shortfall when it does not do so when arriving at the shortfall figure itself. But this is normal practice and sensible; it would clearly be unjust to require

⁵ *Hunston v SSCLG and St Albans [2013] EWHC 2678 (Admin)*

LPAs' performance as to whether they had 'persistently under delivered' to be based on housing requirement figures that were not even in place at the time. The calculation of the housing requirement from the base date is, by contrast, a reflection of the true OAN figure.

14. This figure reflects the OAN identified in the HEDNA. The OAN figure derives from data from the 2011 census and more recent household projections and is therefore much more likely to accurately reflect the true extent of housing need dating back to 2011 than figures derived through the RSS, which relied on 2003 population projection evidence, as confirmed in two key appeal decisions referred to in evidence⁶. These decisions confirm that the housing requirement derived from the RSS in the CS is out of date and should be superseded by more recent evidence. Neither main party are aware of any appeal decisions where an identified OAN has not been applied retrospectively from the beginning of the base date for the plan period. The HEDNA contains the most recent evidence of housing need and there is no reason not to use its housing requirement figure for the District, since this follows the clear advice in the NPPF and Planning Practice Guidance (PPG).
15. The LPA also took specific advice on the calculation of the 5YHLS from the Planning Advisory Service (PAS)⁷. This advice confirms my above view that the most up to date evidence of annual housing need from the start of the ELP plan period should be used, and that this is confirmed by the NPPG, the PPG and judicial authority. It also specifically confirms, in accordance with PPG, that the shortfall since 2011 should be addressed by the Sedgefield method, in other words within the next five years of the ELP rather than spreading it across the whole of the plan period (2011-2031), the Liverpool method. Nothing raised by the Rule 6 Party in evidence convinces me that the Sedgefield method is currently inappropriate for the District.
16. Mr Ford also suggested that the LPA had acted unlawfully because it had not discussed with its neighbouring LPAs whether any newly identified historic need could be delivered by them instead and had therefore transgressed the duty to co-operate. However, as the appellant correctly pointed out, the duty to co-operate only applies to the preparation of local plans, not to S78 appeals.⁸
17. For the above reasons I disagree with the Rule 6 Party's criticisms of the LPA's calculation of the HLS in the next five years. There has been no challenge to the assessment of the supply, only to the requirement, the shortfall arising from it since 2011 and the methodology of addressing such a shortfall, all of which I have addressed above. I have no reason to suppose that the LPA would underestimate its own supply, a situation which would be perverse and therefore extremely unlikely. I conclude that in the absence of any compelling evidence to the contrary it would appear that the LPA has a 4.45 YHLS.

Highway Safety and Traffic Impacts

18. Neither the LPA nor Leicestershire County Council (LCC) as Highway Authority have any concerns about highway safety or the capacity of the local road system to accommodate the traffic arising from the proposed development, provided that the necessary improvements to the junction of the Oaks

⁶ APP/F2415/A/12/2183653 (paragraphs 15-26) set out on page 1 of CD21a & CD13 – APP/F2415/W/16/3152485 (paragraphs 14-17)

⁷ CD21b

⁸ S33A(3) Planning and Compulsory Purchase Act 2004 – Tab 5 in Appellant's Closing Submissions

Road/Stretton Road junction in the centre of the village are carried out. LCC has considered this issue in some detail as is clear from its consultation response to the application⁹. These improvements would either take the form of a re-prioritised junction or a new mini-roundabout, as proposed by the appellant¹⁰. They would be delivered by proposed Condition 21, which prevents the occupation of any dwelling in the scheme until such improvement works have been agreed and implemented via the Highway Agreement in the S106.

19. The Rule 6 Party argues that either improvement to the junction would be unsafe because there would be insufficient visibility for vehicles seeking to turn left into Oaks Road. It states that this would be dangerous because parked cars in Oaks Road would narrow it to effectively a single carriageway such that cars meeting head on would have insufficient time to break, leading to collision accidents. It also maintains that the Road Safety Audits are flawed because they have failed to address this issue.
20. However, even if this was the case it is acknowledged by the Rule 6 Party that such highway danger could be effectively overcome by the removal of the Gas Governor and its surrounding vegetation and re-profiling of the land it sits on (all Highway land), which it is claimed obstructs adequate visibility. The main parties both agree that national policy views Grampian conditions like Condition 21 as a positive mechanism to enable development that would not otherwise be permissible; they also agree that the prospects of whether the action specified in such a condition will be satisfied during the lifetime of the permission is not relevant to the question of whether to impose such a condition¹¹. There was dispute between the parties as to whether the removal of the Gas Governor should be specifically required in Condition 21 but there was no disagreement that danger to highway safety could be effectively overcome by such a condition.
21. For this reason I conclude that there would be no adverse impact on highway safety arising from the necessary improvement to this junction, which is necessary in order to accommodate the additional traffic from the proposed development.
22. In addition to its above highway safety objection the Rule 6 Party contends that the degree of congestion on Oaks Road following the development has not been properly quantified and that there is great potential for increased congestion here and knock-on rat-running on other rural routes out of the village.
23. I agree with the Rule 6 Party that the way in which the appellant surveyed the delays to traffic negotiating the narrow section of Oaks Road closest to the junction, where on-street parking on its southern side effectively makes it subject to one-way traffic movements, fails to take into account the total time a vehicle has to stop and wait for an oncoming vehicle. I agree that there would be about 60,000 times a year when delays would occur in Oaks Road. But traffic is already subject to such delays here and such delays, even taking into account their true extent as demonstrated by Mr Jackson's dashboard camera video footage, do not generally last much more than a minute. There

⁹ CD10q

¹⁰ In the ADC Transport Assessment and in Mr Cummins evidence

¹¹ Agreed Principles paragraphs 1.1 & 1.2 – Tab 2 to appellant's Closing Submissions

is no evidence to suggest that 60,000 such delays in a whole year would be excessive, albeit I accept that they are annoying and any increase in delays is not ideal.

24. The relevant test is that set out in paragraph 32 of the NPPF: whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development, noting that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.
25. At worst the development would lead to increased instances of delay in vehicles waiting to negotiate the 'one-way' part of Oaks Road. I have seen no evidence to suggest that such delays would be likely to be severe and, subject to an appropriate condition, no evidence that the suggested improvements to the junction would lead to danger to its users. For these reasons I conclude that the proposed development would not be likely to result in severe residual cumulative highway safety and traffic impacts. There is no conflict with any relevant development plan policies.

Landscape Impact

26. The site comprises two agricultural fields totalling 8.48 hectares on the eastern edge of Great Glen, abutting but outside the village's settlement boundary. To the south is Oaks Road and other agricultural fields that slope southwards towards Burton Brook. To the east the site is bounded by Glen Oaks, a narrow strip of mature woodland which prevents views of the site from further east. To the north are further agricultural fields. To the west is the existing settlement edge comprising the houses in Coverside Road.
27. The site and surrounding land is not subject to any landscape designations and the main parties agree that it does not lie within a 'valued landscape' in terms of NPPF paragraph 109¹². But that does not mean that it has no value.
28. Great Glen sits within the valley of the River Sence, albeit that the twentieth century development on its eastern side rises up the sides of the valley such that the nearest houses in Coverside Road are situated between the 120m and 125m AOD contour lines. The part of the site that would be developed with housing as shown on the illustrative plan would be between 125m and 130m AOD.
29. Hence there is no doubt that the proposal scheme would result in urban residential development on land that is considerably higher than existing housing development in Coverside Road, Hilltop Avenue or the new Miller Homes estate at Stretton Glen immediately to the north-west of the site. The undeveloped agricultural fields enclosing the village at these higher elevations, including those comprising the appeal site, are a distinctive feature of the local landscape.
30. There are instances of development on the edge of the village above 120mAOD. The Rule 6 Party's argument that these are single buildings is somewhat belied by the mass of the large new development at Leicester Grammar School on the ridge to the west of the village, which can be clearly seen from the site and surrounding footpaths. However, the new buildings there are exceptional and their wider visibility in the local landscape serve

¹² Conceded by Mr Munro under XX

- more to confirm the impact that such development has rather than provide any justification for other new urban development at a similar topographical height.
31. The site is shielded from the west by Glen Oaks and I can understand why the appellant considers that such a landscape feature would serve to mark a logical end-stop to the eastern development of the village. But such woodland areas are an acknowledged feature of the countryside of the High Leicestershire National Character Area (NCA 93) as well as the County and District Levels' character assessments, as set out in the Pegasus LVIA. This band of woodland is free standing in the countryside and framed by the appeal site which separates it from the built-up area of the village.
32. Another feature of the land to the east side of the village are the views across the valley of the Burton Brook from the higher ground to the north and south including from public footpaths and views from the ridge to the west of the village. The LVIA itself quotes various relevant passages from the *Harborough District Landscape Character Assessment (2007)*¹³ including the assessment that *"the settlement edge of Great Glen to the east is both concealed and well defined by a combination of landform and vegetation and there are few opportunities for further development."*
33. It goes onto state that Site I, which includes the appeal site but also the land to the north and the fields to the south sloping down to the Burton Brook, is unsuitable for development in landscape terms and that the most important determining factor in protecting Great Glen's landscape setting is preventing development encroachment on higher, steeper slopes. To some extent this assessment has been superseded by the more recent (2014) *Harborough Rural Centres Landscape Character Assessment and Landscape Capacity Study* because this identifies the appeal site and the two fields to the north as a separate land parcel (Parcel 11) from the sloping land to the south. The Capacity Study acknowledges that the appeal site is sheltered by Glen Oaks from the west and has a backstop of its mature trees but that the visibility of additional properties on Oaks Road from the south should be considered since this would break the skyline in cross valley views over the Burton Brook valley.
34. I was able to verify the views from the various Viewpoints identified by both Mr Peachey (JP) and Mr Munro (DM) during my two site visits, when the weather and visibility were good on both days. I have no doubt that the development would be prominent from near views (JP VPs 12 & 13, DM VPs 5 & 6) although this would be unavoidable. But it would also be prominent in mid-distance views as follows: from Footpath (FP) C13 to the north of the site (DM VP7 and to a lesser extent VP8); from FP C25 to the south-west of the site (JP VP10, DM VPs 2, 3 & 4); and in glimpsed views past the vegetation along Burton Brook from FP C15 (JP VP9, DM VPs 1a, 1b and 1c). It would also be prominent in longer distance views: from higher ground on Mayns Lane to the south east of the village (JP VPs 6 & 7); from the footpath running north from the recreation ground (JP VP14); and the cross-ridge view from the Grammar School (JP VP15, DM VP10), albeit this view is not from public land.
35. I observed in walking these footpaths that they are all well used by local people, including for walking dogs. I agree with the LVIA assessment that footpath users have a varying medium to high sensitivity. But the near and mid-distance views identified as DM VPs 1-9, would be generally substantially

¹³ LVIA paragraphs 4.17-4.27

affected for the worse. The development would be seen above the 'apparent' ridgeline of the hedge on Oaks Road from the south even when the replaced hedgerow had regrown. The current views over the hills of south Leicestershire from the northern footpath would be blocked by the new housing. Whilst the roofs of the Stretton Glen development are obvious from this footpath now the new houses would be on higher ground and therefore much higher. Views of the skyline from both north and south would be severely curtailed. Views from the west would have the existing village development in the foreground and Glen Oaks as a background but the new dwellings would still be prominent on the skyline and at odds with development in the rest of the village.

36. The appellant acknowledges that at least 135m of the hedgerow would be removed on Oaks Road. It is proposed to replant it and to landscape behind it but it is acknowledged that it would take such a hedgerow 10-15 years to re-establish properly and I agree with the Rule 6 Party that the thin strip of frontage landscaping could not realistically be described as a tree belt.
37. The southern field exhibits clear ridge and furrow features on the ground. I accept that ridge and furrow is common in Leicestershire including in this area and that this particular example has no particular heritage or archaeological merit. But it is nevertheless another example of a landscape feature that is identified in the various character assessments and that the Great Glen Neighbourhood Plan (NP) seeks to preserve, irrespective of the fact that it can only be viewed by the public from the field gate into the site. I give very little credence to the appellant's suggestion that it would be partly preserved as part of its landscape masterplan because the remnants that would remain would be merely tokenistic.
38. I acknowledge that the higher north eastern part of the site would remain undeveloped; there would be a planting belt to the northern boundary and a generous area of public open space within the site including the SUDS feature in the south west corner. But these features would not sufficiently mitigate the above harm to landscape character and the adverse visual effects that would be encountered by users of the local footpaths.
39. There is no requirement in NPPF to protect the countryside for its own sake but nevertheless one of the NPPF's core principles is to recognise the intrinsic character and beauty of the countryside. In my opinion the development would fail to do so because it would extend the village eastwards onto higher ground with alien urban development that breaks the skyline in views across the Sence and Burton Brook valleys and destroy the remnant of ridge and furrow on the edge of the village. These are key features identified in the various landscape character assessments. Consequently I conclude that the proposed development would result in significant harm to the local landscape.
40. CS Policy CS2 b), CS11 a) and 'saved' LP Policy HS/8 (subsection 1) require all new housing development to be compatible with the character of the area in which it is situated. The proposed development would fail to do so. CS17 c) requires rural development including in High Leicestershire to be located and designed in a way sensitive to its landscape setting and lists eight specific criteria to be followed in this regard. The proposed development would fail to accord with all these criteria apart from viii) – the requirement to improve green infrastructure and increase opportunities for public access to the countryside, which the development would provide by its public open space and

improved footpath connections. Hence the proposal would fail to comply with these development plan policies.

41. The Rule 6 Party confirmed that the NP was to proceed to a referendum on 23 November 2017 on the basis recommended by the Examiner in her Report of June 2017. My references to Policies below are therefore to the Policies referenced in and modified by that Report.
42. Policy GG13 (Other Important Open Space) has been deleted by the Examiner and so is no longer relevant. Policy GG14 (Ridge and Furrow Fields) requires that development should seek to preserve the identified areas of well-preserved ridge and furrow wherever possible. The proposed development would not preserve the ridge and furrow in the southern field apart from a token remnant and there is no reason why it could not. For this reason I determine that it would not comply with GG14. Policy GG17 (Important Trees and Hedges) requires development proposals to protect and integrate into the design of that development existing trees and hedges of good arboricultural, ecological and amenity value. The proposal would result in the loss of 135m of the existing hedgerow to Oaks Lane, which is in reasonably good condition and provides amenity value in enclosing the field, and so would fail to comply with GG17.
43. These NP Policies are not yet part of the development plan because the NP has not yet been 'made' but conflict with them should be given substantial weight, as acknowledged by the appellant and as required by statute.¹⁴

Other Matters

44. The Rule 6 Party raised a number of other matters that it considered weighed against the proposed development, albeit that these issues in isolation did not warrant dismissal of the scheme. In terms of accessibility of the site to a range of services it presented evidence that the mid-point of the site would be more than 1km from the Co-op food store in the centre of the village and further to the library, surgery and village hall. It argued that this would be considerably further than the acceptable walkable distance of 800m accepted by the LPA and set out in relevant guidance¹⁵ and that walking up a hill (Oaks Road) with narrow footways would also discourage people living at the proposed development from walking into the village.
45. I agree that 800m is generally acknowledged to be a walkable distance and that people would think twice about walking further than this, especially if they had to walk back up a hill and so would be more likely to drive. Having said that, people may combine trips to work or school with trips to pick up groceries locally. Other facilities, notably the primary school, are nearer and would clearly be within 800m of the site, especially from the northern footpath link. On balance I consider that the site would be reasonably accessible to a range of facilities in the village on foot.
46. The objectors also consider that the proposal to establish a new bus route down Coverside Road, which would link into the regular service to Leicester and Market Harborough, is unacceptable and would be unviable in the long term. The appellants seek to provide a contribution sufficient to subsidise this

¹⁴ S1 Neighbourhood Planning Act 2017

¹⁵ Chartered Institute of Highways and Transportation (CIHT): 'Providing for Journeys on Foot' and 'Planning for Walking' & Manual for Streets

diversion of the existing Arriva X3 service for 5 years. This is normal in such circumstances; to require the appellant to subsidise this route in perpetuity would be unreasonable. Whilst diverting the bus from the village centre down suburban roads may not be ideal it is at least better than nothing because it is likely to encourage those wishing to travel by bus to use it if they only have to walk a short distance to the bus stop. For these reasons the bus route contribution would make the development more accessible to non-car modes of transport.

47. A range of other matters are also raised by the objectors including the inconvenience to local businesses and users of Oaks Road during the proposed upgrade of the sewer in Oaks Road and the construction of the improvement works to the Oaks Road/Stretton Road junction; the need for the development to take account of the primary trunk water main running through the site; and concerns about the likely effectiveness of the SUDS surface water drainage scheme. In relation to the first issue, inconvenience or loss of trade arising from construction work is not an issue that the planning system would address. In relation to the second and third issues, I have seen no evidence that such matters cannot be adequately addressed at Reserved matters stage or via conditions.

The Planning Balance and Conclusion

48. In view of the lack of a 5YHLS, paragraph 49 of the NPPF and the recent Supreme Court (SC) judgement¹⁶ mandate that I should apply the 'tilted balance' set out in the fourth bullet point of NPPF paragraph 14 in determining this appeal. This states that where the development plan is absent, silent or relevant policies are out-of-date 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 NPPF taken as a whole (the first limb); or -specific policies in the NPPF indicate that development should be restricted (the second limb). There are no such restrictive policies in this case, and so the second limb does not apply. The above judgement also makes it clear that the test in the first limb should take into account the policies in the development plan, not just those in the NPPF.
49. I agree with the appellant that the policies in the CS and LP that relate to the delivery of the housing requirement – which is derived from the RSS – and the spatial strategy to deliver this requirement are clearly out-of-date and do not reflect OAN set out in the HEDNA. As such I attribute little weight to the conflict with those aspects of CS Policies CS2, CS17 and with LP Policy HS/8 that restrict development to within Great Glen's settlement boundary.
50. However, other aspects of these Policies, as set out in paragraph 40 above, relate to the character of the area, which includes its landscape character, and I have found that the proposed development would conflict with these aspects of the Policies. In my view this means that that the proposal would conflict with the development plan as a whole. These Policies are in accord with NPPF policy to recognise the intrinsic character and beauty of the countryside (paragraph 17) and that the planning system should contribute to and enhance the natural and local environment (paragraph 109). Added to this is the conflict with NP Policies GG14 and GG17. Whilst not part of the development

¹⁶ *Suffolk Coastal DC v Hopkins Homes and Richborough Estates Partnership v Cheshire East BC* [2017] UKSC 37 (CD38)

plan the NP has been examined and is to go to referendum shortly as requested to be modified by the Examiner. Consequently the conflict with these Policies should be given great weight.

51. The LPA has granted planning permission for the identical 2017 application for the reasons set out in the decision notice and the Committee Report. But I have looked afresh at the issues and concluded that there would be significant harm to the local landscape arising from the proposed development.
52. Whilst the LPA can only demonstrate a 4.45 YHLS currently this cannot be described as a significant under supply. Nonetheless, any under supply means that the provision of 170 new dwellings, 40% of which would be affordable, cannot be considered to be anything other than a substantial and significant social benefit of the scheme. The development would also generate proportionate economic benefits to the local economy in terms construction jobs during the building contract and knock-on multiplier effects, as well as long term economic benefits to the shops and facilities in the village from the new residents' expenditure, which would enhance their continued viability. There would also be environmental benefits by way of ecological improvements to the site and the provision of on-site public open space and additional new planting, albeit these are required mitigation.
53. However, these benefits would not in my view overcome the significant harm to the local landscape arising from the proposed development and the consequent failure to comply with the development plan and NP. This harm would significantly and demonstrably outweigh the benefits of the proposed new residential development. For these reasons I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Killian Garvey, Counsel, Kings Chambers, Manchester *instructed by* Guy Wakefield called:

- David Cummins: Highways & Traffic, ADC Infrastructure Ltd
- Jeremy Peachey: Landscape, Pegasus Group
- Guy Wakefield: Planning, Hunter Page Planning

FOR THE RULE 6 PARTY

Leanne Buckley-Thomson, Counsel, No5 Chambers, London *instructed by* Douglas Jackson and Great Glen Parish Council called:

- Steven Johnstone: Highways & Traffic, Walker Engineering Ltd
- David Mitchell: Highways & Traffic
- Douglas Jackson: Highways & Traffic, Landscape and other matters
- Lee Ford: Housing Land Supply
- Donald Munro: Landscape, Munro & Whitten

FOR THE LOCAL PLANNING AUTHORITY

Howard Leathead, Counsel, No5 Chambers, London *instructed by* Verina Wenham, Head of Legal & Democratic Services, Harborough District Council (HDC)

- Nigel Harris, Director, Boyer Planning
- Christopher Brown, Interim Principal Planning Officer, Strategic Planning, HDC
- Mathew Bills, Neighbourhood & Green Spaces Officer, HDC

OTHER INTERESTED PERSONS

- Joanna Green, Local Resident

End of Appearances

DOCUMENTS SUBMITTED AT THE INQUIRY*

NB It was agreed at the Inquiry that these documents would simply be added onto the list of Core Documents (CDs), so they are listed accordingly below. *Document 11(CD49) was submitted after the Inquiry closed.

1 CD39 Objectively Assessed Need and Housing Targets Technical Advice Note, Planning Advisory Service, Second Edition, July 2015

2 CD40 *South Oxfordshire DC v SSCLG and Cemex Properties UK Ltd [2016] EWHC 1173 (Admin)*

3 CD41 Opening Note on behalf of Rule 6 Party

4 CD42 Opening Submissions on behalf of Appellant

5 CD43 HDC 5 Year Housing Land Supply 1 April 2017 to 31 March 2022, dated 12 July 2017

6 CD44 Legal advice to LPA regarding 5YHLS, dated 10 December 2014

7 CD45 DVD of Mr Jackson's video evidence of traffic on Oaks Road presented at the Inquiry

8 CD 46 Mr Johnstone's 7 hand-annotated A3 drawings of the Oaks Road/Stretton Road junction illustrating his highway safety objections

9 CD47 Great Glen Landscape Sensitivity Appraisal – Appendix C to HDC Landscape Character Assessment and landscape capacity Study, Final version dated 21 July 2014 & Map of Houghton-on-the-Hill sites adduced in evidence by Mr Munro

10 CD48 List of conditions & comments on some of them by Rule 6 party

11 CD49 Planning Permission Decision Notice dated 19 October 2017 granted by HDC for identical scheme following close of Inquiry

12 CD50 Closing submissions on behalf of Rule 6 Party

13 CD51 Signed and dated 106 Agreement

14 CD52 Closing submissions on behalf of the appellant together with Agreed Principles and relevant judgements (in separate folder)

End of Documents List