

**APPEAL BY DAVID WILSON HOMES EAST MIDLANDS LTD AND
ANTHONY RAYMOND SHUTTLEWOOD**

LAND AT COSSINGTON ROAD, SILEBY

OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

Introduction

1. This appeal is made by David Wilson Homes East Midlands and Anthony Raymond Shuttlewood (“the Appellants”) against the refusal of outline planning permission by as LPA (“the Council”) for:

“up to 170 dwellings (including affordable housing) with all matters reserved other than access together with associated landscaping and other infrastructure”

2. This appeal proposes residential development on a site immediately adjacent to the south of Sileby, a Service Centre, acknowledged to be one of the more sustainable settlements within Charnwood Borough to provide for additional growth, within the acknowledged context of the significant deficit against the minimum expectation of Government of a five-year supply of deliverable housing.
3. It is agreed that the tilted balance is engaged, and that therefore the appeal scheme should therefore be approved unless any harms significantly and demonstrably

outweigh the benefits of the Development when assessed against the policies in this NPPF taken as a whole. The Appellant's firm submission is that whilst change may be unwelcome to some that in reality there simply is no harm that would come close to justifying a refusal of planning permission in this case.

Identification of Benefits/ Harms

4. Central to the Appellant's case is that the limited harm which arises is decisively outweighed by the public benefits of the scheme. In addition to the delivery of general market housing on a site controlled by a developer who is keen to bring it forward is also the delivery of much needed affordable housing at a policy compliant level (30%).
5. In addition to those two substantial benefits, this is a scheme with significant benefits in its favour:
 - i. The delivery of 5.88ha of high quality public open space, including an equipped area of play should be afforded significant weight.
 - ii. The associated economic benefits of the proposed development (construction phase and long-term impacts) should be afforded moderate weight.
 - iii. The delivery of housing in a sustainable location, with good access to shops, services and public transport facilities, reducing the need for the use of the private car should be afforded significant weight. In particular the delivery of family housing within walking distance of Primary Schools should be afforded moderate weight.
 - iv. The environmental benefits of new planting better reflect the characteristics of the wider landscape should be afforded significant weight.

- v. The delivery of a new, high quality, sensitively designed edge to the settlement, creating a more positive interface to the countryside should be afforded significant weight.
 - vi. The delivery of biodiversity net gains in excess of the target 10% Biodiversity Net Gain which is being introduced through the Environment Bill should be afforded moderate weight.
6. S38(6) of the 2004 Act, requires an overall judgment regarding whether the proposal is in accordance with the development plan taken as a whole (s.38(2)(b)). In answer to the Inspector's fourth main issue¹, the Appellant's position is that this scheme is in accordance with the development plan when read as a whole and that in accordance with para. 11 of NPPF that the appeal proposal should be approved without delay and the substantial planning benefits realised as soon as possible. However, this is a case in which the tilted balance applies, and as such the balance is markedly in favour of granting permission for the Appeal Scheme.

Reasons for Refusal

- 7. The LPA defends two reasons for refusal. RfR 1 concerns landscape matters and alleges harm arising from a loss of an area of local separation, impact to the character of the countryside and the separate identities of the villages of Sileby and Cossington. RfR 2 concerns whether adequate provision is made for open space, education provision and healthcare services and a need to secure affordable housing and an appropriate mix of size and tenure of home by way of legal agreement.
- 8. The RfR correspond to the Inspector's main issues b and c: the effect of the proposed development on the character and appearance of the area in relation to landscape and

¹ whether or not any conflict with the development plan and harm arising is outweighed by other considerations.

the Area of Local Separation and whether or not the proposed development makes adequate provision for affordable housing and other infrastructure requirements.

9. Ms Smedley ('AS') gives the Appellant's planning evidence and Mr Cook ('AC') gives the landscape evidence. Mr Hunter addresses education contributions. Mr Holden has provided a proof of evidence regarding drainage, Mr Holland has provided a note on transport matters and Mr Ramm has provided a statement of evidence on ecology and biodiversity matters, albeit that those are uncontroversial as between the principal parties.

Reason for Refusal 1: Landscape

10. In terms of reason for refusal 1, AC's evidence establishes that on landscape and visual grounds there are no substantive reasons for refusing planning permission.
11. There would be a substantial (major) net beneficial effect with regard to landscape elements within the site and no change to landscape elements beyond the site. The majority of the individual elements (topography, land use, vegetation, trees and woodlands, hedgerows) would be retained and enhanced. However, the scheme would inevitably result in the loss of some arable land.
12. As AC explains, the key characteristics that define the local landscape character beyond the site would remain physically unaffected and with regard to experiential aspects, there would be no material change to the landscape character of the area beyond the site with the proposed scheme in place. The northern part of the site is proposed to accommodate the residential neighbourhoods. The high-quality scheme would reflect the local vernacular architecture which would be in keeping with other residential areas associated with Sibleby. Whilst the proposal would result in a change to the character of the site, this is an inevitable consequence of accommodating housing on a greenfield site on the edge of an existing urban area. The resultant major change would be neutral rather than adverse in terms of its nature of effect, given it would be in keeping in terms of its character and appearance.

13. The balance of the site would form substantial green infrastructure, which would bring about a substantial major change in character terms from arable field. Such change to the character of the site would bring about a high magnitude of change and enhancement which would be beneficial in nature in landscape character terms. AC observes that the sheer volume of planting and landscape enhancement is quite exceptional given the limited scale of the proposed housing.
14. In terms of visual amenity, AC notes that the potential to observe the scheme in terms of its visual envelope would be mainly restricted to the immediate environs of the site and wholly contained within the local landscape. As such, the proposed housing would have a very limited visual impact. Where observed, the proposed scheme would be generally heavily framed and screened by tree cover such that it would be difficult to distinguish it from the existing settlement of Sileby. Further, the magnitude in terms of the degree of effect would be quite limited and the change local to the environs of Sileby. The scheme would also not impinge in visual terms upon the existing visual relationship between the Sileby and Cossington settlement further to the south
15. Overall AC notes that the proposed housing would be in keeping in terms of its appearance and therefore, the housing scheme would be neutral rather than adverse in terms of nature of effect. Simply, this would be an attractive housing scheme to observe rather than being incongruent. Sight of the proposed scheme would not cause harm to the visual amenity of the area. Further, the extensive green infrastructure would be beneficial in terms of the nature of effect.
16. AC properly acknowledges that the proposal would physically extend and encroach into the ALS. However, the area which would accommodate the proposed housing dwellings he considers to only have a limited role in realising the function of this policy. The perceived sense of separation would not materially change with the proposed scheme in place. The narrowest gap separated by the ALS would remain unchanged and as such, AC considers that there would be no narrowing of the gap in physical terms and so no substantial or significant ALS reduction. To the contrary the planting

within the open space would assist in consolidating the separation of existing communities.

17. Similarly, the proposal would not reduce the least distance between the southernmost point of Sileby and the northernmost point of Cossington identified by open undeveloped land. Further, having examined the gap from the local public highways and rights of way, AC's evidence is that in terms of the area proposed to accommodate the appeal scheme, this particular part of the ALS performs a somewhat limited role in maintaining the perceived sense of separation between Sileby and Cossington. AC therefore considers that the Appeal Scheme would not materially change the perceived sense of separation between the two settlements.
18. In terms of the ALS purpose, AC's evidence demonstrates that the appeal site is limited in its role owing to its physical and visual containment significantly curtailing visibility of part of the site which would accommodate the housing area. Furthermore, the site does not play a material role in principal lines of sight across the AOS from public vantage points.
19. AC notes that the proposed residential scheme would inevitably change the character of the site as part of an arable field to a residential neighbourhood. However, what is proposed would be in keeping in character and consistent with other nearby residential neighbourhoods of Sileby. This change to the character of the wider landholding is beneficial in character terms with the proposed dwellings being neutral in terms of nature of effect rather than adverse, i.e., harmful. AC observes that such a proposal would not be incongruous, unsightly or offensive to the eye based on the quality proposals. There would not overall therefore be any significant harmful impact on the character of the countryside.
20. AC's careful review, establishes that there would be no significant harmful impact to the separate identities of the villages because the proposed scheme would in general terms be consistent with defining characteristics of Sileby and consequently would not change the character that defines the separate identity of Sileby. The physical extent of the remaining distance that separates the two villages would remain effective such that

both settlements would continue to be framed within the context of a rural landscape. The proposal would not bring about any physical coalescence of the villages and would maintain the purpose and integrity of the gap. As AC's rebuttal sets out, the Site is plainly not a valued landscape.

Reason for Refusal 2: Contributions

21. The tenure split of the 51 Affordable Dwellings accords with the Housing SPD with the following split set out in the draft conditions and S106: 77% rent and 34% shared ownership. Accordingly, the proposed development makes adequate provision for affordable housing.
22. The proposal's effects on biodiversity could be satisfactorily addressed by detailed measures secured by condition and approved as part of the detailed reserved matters application. The proposed development makes adequate provision in respect of biodiversity and ecology.
23. The onsite open space provision and its ongoing management and maintenance is secured through the S106 agreement. The Officer's Report considers that, overall, the development would provide good quality open space above the level required for the quantum of development proposed. Several conditions relating to access and sustainable travel are included within the schedule of conditions, including provision of a Travel Plan to promote the use of sustainable modes of transport. In addition to these, contributions to be secured through the S106 agreement. the proposal is considered to comply with policy requirements.
24. In respect of Library and Waste Services, contributions are to be secured through the S106 agreement.
25. Without adequate justification for the contributions, the Appellant's position is for £0 contribution towards healthcare provision.

26. In terms of education the parties disagree with respect to the 18 points set out in section 7 of the dedicated SoCG. The Appellant does not consider that LCC have demonstrated that the contributions which are not agreed are necessary given surplus places at local schools. To take primary schools as an example, as of the 2020/21 academic year, there were 147 surplus places in Primary Schools within a two-mile walking distance. The catchment school will not be full following the approval and construction of this development, and therefore there is no need to look further afield, as each development needs to be looked at on its own merits. For these reasons there is similarly no necessity for a primary transport contribution. By way of overview, LCC has stated that the catchment area school to the development will have space following the approval of this development. This means that they can attend their catchment school within Sileby and not have to leave.

Overview of the RfR

15. This appeal should be allowed. The reasons for refusal do not stand up to scrutiny. It is firmly submitted that even if harm is caused by the Appeal Scheme this harm is rather decisively outweighed by substantial public benefits and so the Appeal should be allowed.

The Inspector's First Main Issue: Location of Development

27. The first main issue is: whether the proposed development would be in a suitable location having regard to the development plan and national policies.

28. AS breaks this topic down into two questions: whether spatially, Sileby is an appropriate location for residential growth and secondly, whether there are any site-specific reasons which would render the site unsuitable for development. AS notes that it is agreed that Sileby represents one of the more sustainable settlements in Charnwood to provide for additional growth. It is also agreed that Sileby is identified as one of Charnwood's seven service centres in the adopted Core Strategy.

29. The Council have undertaken a settlement analysis, published within evidence base document Charnwood Settlement Hierarchy Assessment October 2020 Update (CD6.11) when assessed in this document, Sileby scores 11 points, the same as Loughborough, Shepshed, Thurmaston and Birstall (the urban areas). Sileby has far more than the minimum services and facilities required in order to designate a settlement as Service Centre. AS considers therefore that Sileby is a demonstrably sustainable settlement, suitable and capable for further residential growth.
30. In terms of site-specific matters, except for the response of the Council's Landscape Officer, no objection was received to the appeal proposal from any technical statutory consultee. AS comprehensively addresses the third-party concerns in respect of education/healthcare, highways, flood risk and drainage, and ecology and biodiversity. The Council's landscape case is not accepted for the reasons set out above. There are no site-specific reasons why the Site is unsuitable for development.

Conclusion

31. In conclusion, in favour of the appeal are the significant public benefits which demonstrably outweigh any harm asserted by other parties. The scheme complies with the development plan and should be approved without delay.
32. The balance, tilted or not, is clearly in favour of granting consent for this sustainable scheme and it is firmly submitted that this should be the outcome of this appeal.

Paul G Tucker QC

Constanze Bell

20th March 2022

KINGS CHAMBERS

MANCHESTER – BIRMINGHAM – LEEDS