

P15/S3228/O

PLANNING COMMITTEE SUBMISSION FROM MIND THE GREEN GAP

PART TWO

11th May 2016




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INTRODUCTION

A couple of days ago we sent you a brief introduction to an Application that you will consider on 18th May. This is the second in a series of short documents that will provide the sound planning reasons to refuse the application.

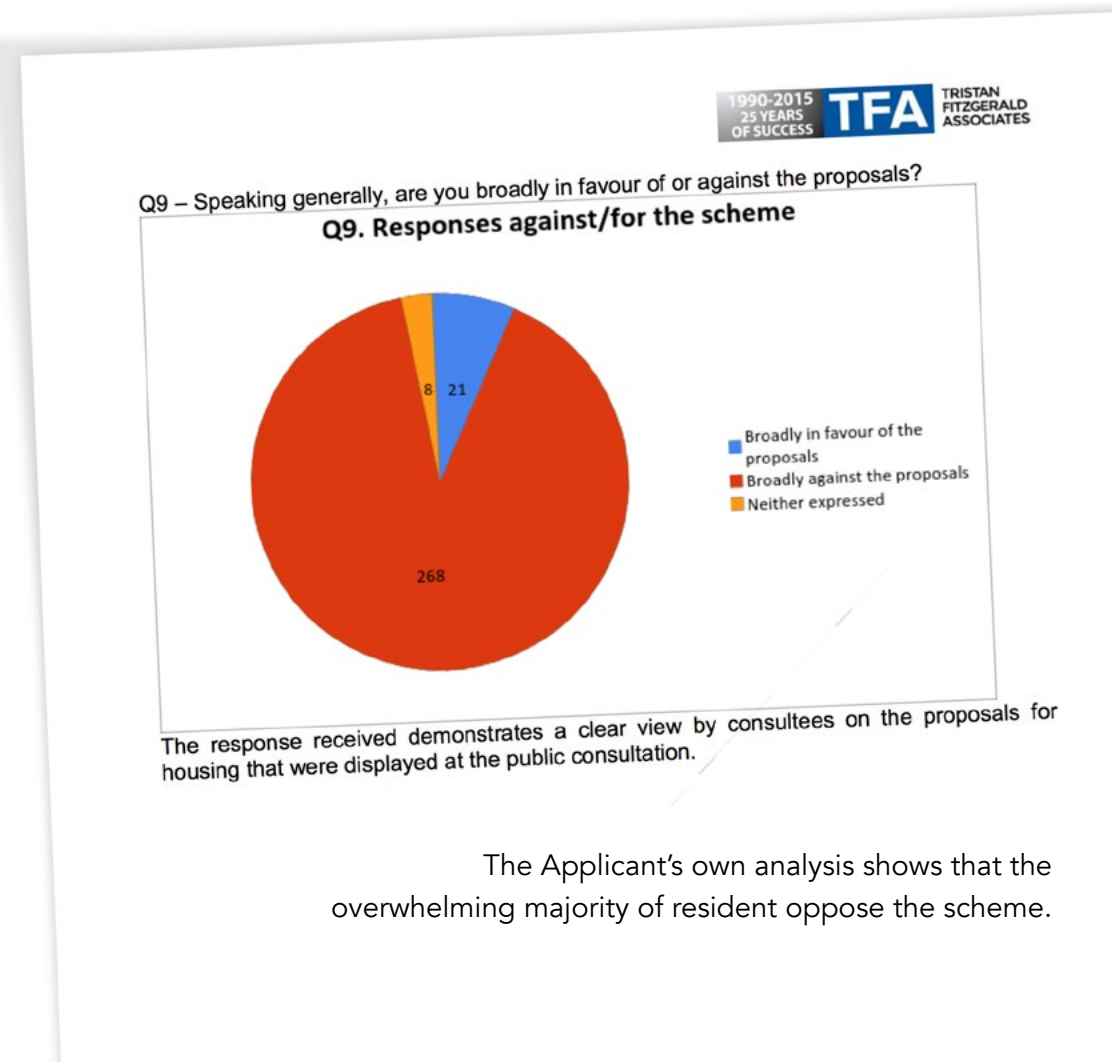
You will be aware that the Officer is recommending the Application for approval. However, we believe that the Officer's report underestimates the harm caused by the scheme and overestimates the benefit. As a result the Officer's recommendation is not reflective of a true planning balance.

The following planning based arguments which are supported by the latest High Court and Inspector judgements will make it clear why it is reasonable, right and proper for the Planning Committee to refuse permission.

Each of our submissions to the Planning Committee is available on the [Mind the Green Gap](#) website.

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The Applicant's own analysis shows that the overwhelming majority of resident oppose the scheme.

1. PLANNING CONTEXT

The LPA has conceded that it cannot demonstrate 5 years housing land supply (HLS) anywhere in the District. Therefore this Application will be determined under the terms of the National Planning Policy Framework (NPPF), explicitly paragraphs 49 and 14 and its “presumption in favour of sustainable development”. However, this does not mean that local policy is a slave to national dictat. Local policy can still be given as much weight in decision making as local decision makers feel fit.

In March 2016 The Courts of Appeal provided the most definitive guidance regarding this “presumption” in *Richborough Estates Partnership LLP v Cheshire East Borough Council and Secretary of State for Communities and Local Government* [2016] EWCA Civ 168.

This judgement recognises that the government’s objective is to increase the supply of housing. However, it also enshrines the primacy of local decision makers to determine whether the harms that come with additional housing outweigh any benefits.

The judgement establishes a formal process for identifying “relevant policies for the supply of housing” when an LPA does not hold a HLS. Crucially, the judgement goes on to

“emphasize here that the policies in paragraphs 14 and 49 of the NPPF do not make “out-of-date” policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision-maker.” (46)

In the very next paragraph (47) they go on to state – calling out specifically Green Gap policies - that:

“there will be many cases, no doubt, in which restrictive policies, whether general or specific in nature, are given sufficient weight

to justify the refusal of planning permission despite there not being up-to-date under the policy in paragraph 49 in the absence of a five-year supply of housing land. Such an outcome is clearly contemplated by government policy in the NPPF. It will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date. This is not a matter of law; it is a matter of planning judgment.”

SODC has lost its 5 year housing land supply. But only just. SODC is currently fighting the Stadhampton appeal on the basis that its supply is 4.7. High Court judgements have clearly established the precedent by which decision makers can reasonably down weight the importance of new housing and up weight that of local policy in instances where there is minimal shortfall. This must be the case here. The Planning Committee should feel empowered to give primacy to local, democratically adopted plans and refuse this application.



National Planning Policy Framework

2. REASON TO REFUSE: COALESCENCE

The Officer makes the comment that the word coalescence does not appear in either the Core Strategy or the NPPF. The Officer is correct on this point. The Officer then goes on to suggest that therefore coalescence is not such an important matter when set against the delivery of new housing. The High Court and recent Planning Appeal decisions indicate that the Officer's understanding is very mistaken.

The right of communities to maintain their own unique identities is a fundamental planning principle that underpins the local plan and the NPPF. Indeed it is enshrined in the very first settlement objective in the Core Strategy 2012: to "support the character and distinctiveness of all our towns and villages". This is enabled by such policies as CSEN1, C4, D1, G2 and G4.

The vital importance of the location of this site is long established. An Inspector at a previous appeal for a refused application at this site noted:

"The intervening open space between the southern limit of the town, as now formed by the dwellings in Fleet Meadow, and the northern straggle of East Hagbourne is only just sufficient to ensure a separation of any real worth between the 2 communities."

SODC's Planning Officer has confirmed in writing that "that a green gap ... can only be achieved with little of no housing" (email dated 7th January 2016.) This application at this location is, of course, for up to 170 dwellings.

In reaching this conclusion, the Officer concurs with the Planning Inspector who dismissed a previous appeal on the grounds that development would cause coalescence between East Hagbourne and Didcot. He stated: "any development south of the public footpath would introduce an urban element wholly unacceptable in this narrow and vulnerable wedge of open land".

In 2014, the administrative boundary between the town of Didcot and the parish of East Hagbourne was re-set along the exact same line as the Appeal determination and was described as a: "boundary defining the separate identities of the town and village, which we can then all respect."

This is not just a local matter. At a number of recent Appeals Inspectors have determined that loss of some or all of 'green gaps' outweigh the benefits from additional housing even where there is no 5 year supply of housing land.

For example at Willaston (3011872) the Inspector dismissed an Appeal in March 2016 determining that:

"The harm that would be caused by the significant erosion of the Green Gap ... significantly and demonstrably outweighs the contribution that the development would make to redressing the under supply of housing land in the Council area" (paragraph 35.)

At Tiddington (3017900), also in March 2016, the Inspector determined that:

"I consider that the harm through loss of openness and the coalescence of Stratford-on-Avon and Tiddington are in conflict with LPR Policy PR.1 and emerging CS Policy CS5 would be substantial and would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, I conclude that these appeals should be dismissed".

This Application will lead to the coalescence of East Hagbourne and Didcot. This runs counter to fundamental planning principles, the NPPF and local planning policies. Recent Appeal decisions confirm that the harm created by loss of "green gaps" preventing coalescence between settlements materially outweighs the benefits of additional housing even where there is no 5 year supply. The Application must therefore be refused.



Standing room only at Fleet Meadow Community Centre as residents turn out to show their opposition to the scheme.

Published by Mind the Green Gap on behalf of
Didcot and East Hagbourne residents.
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