



# Appeal Decision

Hearing held on 26 January 2010

Site visit made on 26 January 2010

by **Elizabeth C Ord** LLB(Hons) LLM MA  
DipTUS

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

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**Decision date:**  
**8 February 2010**

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## Appeal Ref: APP/Z2830/A/09/2114196

### Land off Stockwell Way, Milton Malsor, Northampton

- 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 the trustees of H. C. Sargeant deceased against the decision of South Northants District Council.
- The application Ref S/2009/0661/PO, dated 8 July 2009, was refused by notice dated 14 October 2009.
- The proposal is residential development.

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### Decision

1. I dismiss the appeal.

### Procedural Matters

2. The application is in outline with all matters reserved except access and, in accordance with paragraph 52 of Circular 01/2006, the amount of development is shown, and was confirmed at the hearing as 25 dwellings. I have accordingly dealt with the appeal on this basis.
3. A signed unilateral undertaking has been submitted by the appellants pursuant to Section 106 of the Town and Country Planning Act 1990 as amended. This provides for 40% of the dwellings to be affordable housing and commits to financial contributions for additional school places and for recreational facilities in the village, as well as setting up a wildlife management company. The undertaking is acceptable to the Council and I have no reason to take a different view.
4. At the hearing the appellants revealed that a claim for judicial review had been made of an appeal decision upon which the Council relied. Consequently, in response to the Council's unchallenged application for time to consider and respond to the grounds of claim, I allowed the hearing to remain open for a short period. Thereafter, I closed the hearing in writing.

### Main issue

5. Whether there is such a significant shortfall in housing land supply to render the proposal sufficiently sustainable so as to overcome policy restrictions relating to new dwellings in the open countryside.
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## Reasons

### **Policy**

6. Milton Malsor is identified by Policy H5 of the South Northamptonshire Local Plan (SNLP), adopted October 1997, as a restricted infill village, where proposals for residential development will normally be permitted within the village confines. However, there is no dispute that the appeal site lies outside of the defined village settlement boundary and within open countryside. Consequently, it is common ground that the proposal conflicts with SNLP Policies H6 and EV2, which take a restrictive stance towards development in the open countryside. Also of relevance is SNLP Policy G2, which aims to concentrate new development in the two main towns in the District, notably Towcester and Brackley, and to severely restrain development in the open countryside.
7. Policies within the East Midlands Regional Plan (EMRP), adopted March 2009, also seek to restrict development within the open countryside. Policy 1, which sets out regional core objectives, encourages patterns of new development that reduce the need to travel especially by car. Policies 3, 11 and MKSM SRS Northamptonshire 1 provide a sequential approach, concentrating development in urban areas followed by rural service centres, whilst limiting development in the rural hinterlands and safeguarding villages from degradation by inappropriate growth. Policy MKSM SRS Northamptonshire 1 contains the region's Spatial Framework and requires South Northamptonshire to provide an average of 330 dwellings per year between 2001 and 2021.
8. There is a requirement within Planning Policy Statement 3: *Housing* (PPS3) to ensure a rolling 5 year supply of deliverable housing within the District. However, the 2008 to 2009 South Northamptonshire Council Housing Land Availability Study (July 2009) shows that, as of 1 April 2009 there was only a 2.75 years supply of housing land. This equates to a shortfall of 2.25 years supply, or 909 dwellings.
9. In recognition of the need to increase housing land supply, pending the adoption of the emerging West Northamptonshire Joint Core Strategy, due in 2011, the Council produced an *Interim Rural Housing Policy* (IRHP), adopted July 2009. Taking account of PPS3, amongst other policies, reports and guidance, it allows for some suitable residential development on sites outside but adjoining village confines, which previously would have been subject to greater restraint. However, only 3 villages considered as "most sustainable" and 13 villages considered as "reasonably sustainable" are respectively identified for an indicative 10% and 5% growth. Melton Malsor is in neither category and is not considered as sufficiently sustainable to be included for expansion.
10. Nonetheless, the IRHP was a quick response to an urgent need and the Council acknowledges that it does have shortcomings. It has been criticised in various ways by the appellants, who are particularly aggrieved by its settlement scoring methodology, which underlies the sustainability matrix used to identify

acceptable villages for expansion. For instance, they refer to the matrix as being neither exhaustive nor discriminatory, as no additional weighting is given to more than one facility of the same type, and no account is taken at all of certain other facilities. They are concerned that no consideration is given to a facility's quality or size, and they dispute that levels of population should be an indicator of sustainability.

11. Moreover, the appellants suggest that the Policy's failure to examine whether there is capacity to accommodate further development undermines its credibility. However, although far from ideal, the IRHP was produced in the light of some information on infrastructure capacity, prepared by the West Northamptonshire Joint Planning Unit.
12. The appellants indicate that the 5% and 10% increases are arbitrary and not based on the carrying capacity of an individual village. Nonetheless, it seems to me that these indicative scales of growth are reasonably related to existing numbers of dwellings within the identified villages. Whilst the appellants raise concerns about tests within the IRHP which are not reflected in PPS3, there is nothing within these tests that conflicts with Government policy.
13. Whilst I recognise that the IRHP has weaknesses, it also has strengths. It was prepared in accordance with the procedures required for supplementary planning documents and was subjected to wide, comprehensive public consultation. This involved press releases to local papers to extend coverage, several meetings with stakeholders and other consultees, and mail shots which included an on-line link to a website containing all of the consultation information. It is fully endorsed by Melton Malsor Parish Council, who participated in the process. The appellants' agent also took part in the consultation process.
14. Furthermore, the Policy is a "living document" which is intended to be monitored and updated, reflecting the principles of "Plan, Monitor, and Manage" referred to in PPS3. It attempts to control and co-ordinate proposals so as to avoid inconsistent and sporadic development on ad hoc sites. By setting out sustainable development objectives on a flexible basis it provides a practical way forward to meet housing need. Therefore, for all the above reasons, although it cannot assume the importance of the development plan, I give the IRHP weight.

### ***Housing land supply***

15. Since adopting the IRHP, there has been a reduction in the April shortfall of 909 dwellings. It is agreed that the required housing land provision currently stands at 1,157 units. Since 1 April the Council has approved 218 units and another 130 are approved subject to section 106 agreements. This leaves a requirement of 809 dwellings. Leaving aside Towcester, there are current planning applications for 704 dwellings, and from these the Council has estimated that 490 will come forward. This would further reduce the requirement to 419. In terms of PPS3 deliverability, little evidence has been put before me to suggest that the requirement would not be met. Therefore, I accept the Council's position that the sites it has counted towards the supply figures, are available, suitable and achievable.

16. Whilst I acknowledge that these figures do not demonstrate a 5 year supply, the Council has taken a cautious approach with its calculations. For example, some of the applications relating to "most sustainable" and "reasonably sustainable" villages are for more than the 10% and 5% indicative expansions set out in the IRHP. Whilst the Council has assumed that approvals will only be given up to these percentage figures, the IRHP does not prevent greater numbers in appropriate circumstances as set out in the Policy.
17. Furthermore, future major developments at Brackley and Towcester have been excluded due to uncertainty over delivery, yet there have been a number of recent indications which point to there being a realistic possibility of some of this housing being built within 5 years. In relation to Brackley, pre-application discussions are ongoing with respect to 1,300 dwellings. The Council has submitted a time table of events estimating an outline planning application in March 2010, with 150 phase 1 dwellings proceeding directly to detailed application. This would add to the supply.
18. With regards to Towcester, an application has already been made for 3,000 dwellings. Whilst there are significant issues relating to highways, water supply and sewerage, the Council's indication that these matters are not insurmountable has not been challenged. Although the appellant's agent suggested at the hearing that this development would be subject to substantial delay, he also referred to some housing possibly being built in about 2-2½ years' time. Accordingly, I take the view that it would not be unreasonable to include some of this potential housing provision within the figures.
19. There are also pre-application discussions proceeding on additional sites, which in total relate to another 347 dwellings. There is nothing to suggest that at least some of these units will not be built within 5 years, again increasing the supply. Consequently, if a less conservative approach is taken, the housing supply figures come close to and possibly meet PPS3 requirements.
20. Even if these developments are discounted, the Council has demonstrated that, despite only being in existence for about 7 months, the IRHP is working effectively by reducing the supply shortfall by more than half compared to April 2009 figures. This is particularly encouraging given the difficult economic climate that has persisted of late. Nonetheless, where a 5 year supply cannot be demonstrated, PPS3 advises that planning applications for housing should be considered favourably, having regard to the policies within the PPS3.

### ***Sustainability***

21. Paragraph 69 of PPS3 advises that, in general, in determining planning applications, account should be taken of the suitability of a site for housing, including its environmental sustainability. Regard should also be had to ensuring that the proposed development reflects the spatial vision for the area.
22. Milton Malsor is a small village of about 750 inhabitants and 318 dwellings. There is no dispute that it scores only 54 points according to the IRHP's methodology, and that this brings it below the numerical level of sustainability required by the Policy for growth outside the village confines. The proposed 25

dwellings would amount to about a 7.86% increase of existing housing, more than the indicative 5% usually allowed by the IRHP for “reasonably sustainable” villages.

23. It has a church, a chapel, a primary school, a village hall, a small shop selling basic, mainly non food provisions, two public houses, a community centre for the elderly, a recreation ground and a football pitch. There are hourly bus services to Northampton, Towcester and Milton Keynes, where there are other shopping and community facilities. Employment opportunities exist at Swan Valley, about 12 miles away as the crow flies, and at Blisworth, within cycling distance. It is agreed that there is capacity within all of the services, namely, gas, electricity, water and sewerage, to accommodate the proposal. However, the school is operating at capacity, although it currently takes pupils from outside of the village.
24. Car dependency is likely to be high amongst those occupying the proposed dwellings for two reasons. In the first instance, big weekly shops, and access to jobs, services, leisure and entertainment are likely to require the use of a car, given the remoteness of the village from much bigger settlements. Secondly, the site lies well away from bus stops in the village and this is likely to discourage the use of local bus services. The aim of national, regional and local policy is to direct development to brown field sites before green field sites. The site is green field, used for agricultural purposes, although I acknowledge that the area generally affords little opportunity for development on previously developed land. However overall, I find Melton Malsor to be limited in terms of sustainability. Therefore, residential development in this location, outside of the settlement confines, would not be in accordance with the spatial vision for the area. Accordingly, the proposal does not fulfil all of the tests within PPS3.
25. As a restricted infill village, I acknowledge that it is sufficiently sustainable to accommodate suitable, small scale infilling within the confines of the settlement, even without a ceiling being placed on the overall numbers. I also accept that the site meets some of the IRHP criteria, adjoins the village boundary and is defined on three sides by the existing railway line, hedging and an existing housing estate. However, given the potential for other more suitably located and more sustainable sites coming forward to meet housing demand, I find that it is not sufficiently sustainable to merit residential expansion beyond the village boundary and to overcome the policy protection afforded to the open countryside.
26. The appellants refer to four appeal decisions<sup>1</sup> given in 2009 where the housing land supply position within South Northamptonshire District was considered. All of the appeals were allowed, although the first three predated the IRHP and are, therefore, distinguishable in a material way. The fourth appeal, *Pattishall*, was determined post IRHP and involved a consideration of this Policy, under which it scores less than Milton Malsor, achieving only 32 points. The Council also cited an appeal decision<sup>2</sup>, determined shortly after *Pattishall*, which also took account of the IRHP, yet resulted in dismissal.

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<sup>1</sup> Potterspury (APP/Z2830/A/08/2079946), Cosgrove (APP/Z2830/A/08/2084473), Old Stratford (APP/Z2830/A/09/2098045), and Pattishall (APP/Z2830/A/09/2109114).

<sup>2</sup> Chipping Warden (APP/Z2830/A/09/2109765)

27. Consistency is an important material consideration in decision making. However, in this instance there is sufficient reason for me to depart from my predecessor's findings in the *Pattishall* case. There has been a material change of circumstances resulting from the increased supply of housing land, so that the previously identified urgency of adding to the supply has now significantly diminished. Consequently, given the current shift in housing deliverability, I have no difficulty in reaching a different conclusion.

**Other matters**

28. The site abuts a railway line beyond which is an area allocated in the Northamptonshire Minerals Local Plan 2006 for sand extraction. However, the noise reason for refusal is no longer being pursued, as both the Council and the Parish Council accept that measures could be appropriately conditioned to reduce noise impact. Such mitigation, I understand, would result in noise levels at the dwellings being commensurate with Noise Exposure Category B in Planning Policy Guidance 24: *Noise*, and would also bring noise exposure within the limits contained in Annex 2: *Noise of Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England*. I have no reason to disagree with this.
29. Nonetheless, notwithstanding the proposed high level bunding and fencing along the site's perimeter, given the railway's close proximity to the proposed housing, it is likely that there would be occasions when noise from this busy line would still impact on the living conditions of some residents. Furthermore, the appeal site is only separated from the safeguarded mineral's site by the railway line. Therefore, it is probable that, if the mineral's site came into operation, the workings would also produce a level of noise and dust that would affect neighbouring occupiers.
30. Cumulatively, the noise impacts of the adjoining heavily used railway line and, potentially the workings of the mineral site beyond, would result in a material level of disturbance to living conditions. Although site screening would lessen the effects, it would not be ideal and could, itself, have the disadvantage of creating an unpleasant visual environment. Whilst siting is not before me, from the appellants' indicative layout, it would seem that, despite landscaping, the proposed bunding and acoustic barrier might give a limited outlook to some occupiers and result in an unduly enclosed ambience.
31. Furthermore, the entrance to the site is narrow and lies immediately adjacent to private residential amenity space. The comings and goings of vehicles in such close proximity would result in some noise and disturbance to adjoining occupiers.
32. These matters detract from the suitability of the site for housing. Although these matters are, on their own, insufficient to dismiss the appeal, they lend weight to my concerns about the sustainability of Melton Malsor.

**Conclusion**

33. It is not disputed that the proposal is contrary to SNLP Policies H6 and EV2 and I agree with this view. For the reasons given above, I also take the view that it is in conflict with SNLP Policy G2, and EMRP Policies 1, 3, 11 and MKSM SRS

Northamptonshire 1, which together seek to restrict most new residential development in the open countryside.

34. In relation to other material considerations, Melton Malsor is excluded from the villages identified for growth within the IRHP. This Policy provides a reasonable interim solution to resolving the housing land supply shortfall within the District and has already gone some considerable way to reducing it. Given the success of the Policy and recent advancements in potential future developments, I conclude that it is likely that housing supply requirements, if not already met, shortly will be. Therefore, in these circumstances there is no need to extend housing growth to outside the village boundary of Melton Malsor, given its comparatively lesser sustainability.
35. Consequently, for the reasons given and taking account of all matters raised, I find that there are no material considerations taken separately or together to outweigh the development plan presumption against new development in the open countryside. Accordingly, I conclude that the appeal should not succeed.

*Elizabeth C. Ord*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Laurence Wilbraham Dip TP, MRTPI	Wilbraham Associates Ltd., chartered town planning consultants
Les Jephson B Eng, MIOA	ANV acoustic consultants

### FOR THE LOCAL PLANNING AUTHORITY:

Andrew Longbottom MA, MRTPI	Senior planning officer with South Northamptonshire Council
Andy D'Arcy	Lead planning policy officer with South Northamptonshire Council
John Penny MSc in applied acoustics	Environmental Protection Officer with South Northamptonshire Council

### INTERESTED PERSONS:

Christopher Mair	Milton Malsor Parish Council
Ann Addison	District Councillor
Sally Townsend	District Councillor
Glen Bass	Local resident
Dudley Bass	Local resident
Stuart Curtis	Local resident
Michael O'Leary	Local resident
Brian Sumpton	Local resident
Roland Bass	Local resident
Janice Corner	Local resident

### DOCUMENTS SUBMITTED AT THE HEARING

- 1 Notification letter and list of addressees - Council
- 2 Decision 2109765 – December 2009 - Council
- 3 Housing Land Supply figures January 2010 - Council
- 4 Brackley timetable for housing development - Council
- 5 Map of South Northamptonshire – Council
- 6 Claim form and grounds of legal challenge - Appellants
- 7 Response to grounds of legal challenge - Council