



# Appeal Decision

Inquiry opened on 16 September 2008

Site visit made on 18 September 2008

by **Paul Jackson** B Arch (Hons) RIBA

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Decision date:  
22 October 2008

## Appeal Ref: APP/T2405/A/08/2069849

### Land north of Borrowcup Close, Leyslands, Countesthorpe, Leicestershire

- 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 Persimmon (North Midlands) Ltd against the decision of Blaby District Council.
- The application Ref 07/1005/1/OX, dated 27 September 2007, was refused by notice dated 3 March 2008.
- The development proposed is residential development of approximately 110 houses plus associated landscaping and infrastructure.

### Preliminary matters

1. The application was submitted in outline with all matters reserved for subsequent approval. An indicative layout was submitted with the application. I have taken this into account.
2. Prior to the Inquiry, the Council withdrew 5 of the 8 reasons for refusal. Those withdrawn relate to the adequacy of the appeal proposal as a buffer to land designated as a Green Wedge, the impact on the ecological and archaeological attributes of the site; the need to conserve energy; and the need for open space. I have taken this into account in considering the appeal.

### Decision

3. For the reasons given below, the appeal is dismissed.

### Main issues

4. The main issues are:
  - Whether there are any circumstances to justify setting aside the presumption against development of the appeal site, which is designated as part of a Green Wedge in the countryside, having regard to the supply of housing land in the area and the sustainability of the location; and
  - The effect on the character and appearance of the area.

### Reasons

5. Countesthorpe is a large village on the southern outskirts of Leicester. Although fairly close to the city and the settlements of Whetstone and Blaby, it is surrounded by open countryside. The appeal site comprises 2 fields on either side of a small area of woodland adjoining the north side of the village. The woodland is covered by a Tree Preservation Order.

*Policy background*

6. The statutory development plan includes the Regional Spatial Strategy for the East Midlands 2005 (RSS8) covering the period 2001- 2021, the Leicestershire, Leicester and Rutland Structure Plan 1996-2016 (SP) and the Blaby District Local Plan (LP) adopted in 1999 for an operative period up to March 2006.
7. RSS8 is being reviewed for the period 2001-2026. The Report of the Panel following the Examination in Public was issued in November 2007 and proposed changes (referred to henceforth as the Proposed RSS or PRSS) published by the Secretary of State in July 2008. Whilst the consultation period runs to 17 October 2008, in accordance with Government advice in Planning Policy Statement 11 (PPS11) *Regional Spatial Strategies*, as a continuous planning process, I give the policies of the PRSS significant weight.
8. Following a Direction from the Government Office for the East Midlands on 5 March 2008, only 2 policies of the SP remain extant. These are Housing Policy 1, which gives targets for housing provision in each local authority area for the period 1996 to 2016, and Housing Policy 3, indicating that 50% of housing provision should be on previously developed land (PDL). Other SP policies are referred to in the reasons for refusal, but except for the above, none have been saved.
9. Similarly, some policies of the LP have not been saved. The replacement Blaby Local Development Framework (LDF) is behind programme. There is a Statement of Community Involvement but no Core Strategy or any other new local development plan document that is relevant to the appeal. The only remaining relevant LP policy referred to in the reasons for refusal is C3, broadly restricting development within 'Green Wedges' between settlements to that associated with agriculture, leisure, forestry, transport routes and mineral uses.
10. One important objective of Government advice in Planning Policy Statement 3 *Housing* (PPS3) is to facilitate the development of housing in suitable locations according to evidence of current and future levels of need. It provides guidance on how local authorities should monitor need and identify broad locations and deliverable sites for the next 15 years. Moreover, there should be specific deliverable sites identified so that a continuous rolling 5 year supply is maintained throughout the development plan period.
11. The thrust of SP policies, RSS8 and the PRSS has been and is to prioritise areas within which new housing is built. This approach is supported by other Inspectors and by the Secretary of State<sup>1</sup>. The Three Cities Sub-Regional Strategy (SRS) of the PRSS seeks to concentrate new development primarily in or adjacent to the defined urban conurbations (Principal Urban Areas or PUAs) including Leicester, where the existing infrastructure can be built upon. These areas are also where a large proportion of the population already live and where there are significant areas of deprivation and PDL that need to be recycled and revitalised. This is not intended to discourage development in sustainable rural communities, providing that it does not lead to more and

---

<sup>1</sup> Docs 8 & 10

longer journeys, particularly in areas where growth in unsuitable locations could encourage increased levels of commuting.

12. Countesthorpe and the immediately adjacent settlements of Blaby and Whetstone do not lie within the Leicester PUA, although part of the northern area of Blaby District does, including the built up parts of Kirby Muxloe, Braunstone and Glenfield. Paragraph 4.2.28 of the PRSS indicates that the best opportunities for planned sustainable urban extensions (SUEs) to the PUA to meet demand in the latter years of the plan period include west of Leicester in Blaby District where these settlements lie. For this reason, housing provision in Blaby is phased in policy 13 of the PRSS, from 260 dwellings per annum (dpa) between 2006 and 2011, through to 340 dpa between 2011-2016 and to 460 dpa between 2016 and 2026. Moreover, the Secretary of State indicates that a further partial review will be necessary to cover the period from 2006 to 2031 in the light of amended household projections that suggest more houses will be required in the region.

#### *Housing supply in Blaby*

13. The annual monitoring reports (AMRs) prepared by the Council show that dwelling completion rates have tended to exceed the average annual requirements of the SP and that the 2016 target of 4650 homes will be met well in advance, in March 2012. This reflects a SP requirement of 233 dpa. Against adopted development plan policies, therefore, taking account of completions between 1996 and 2001, there is a housing supply of well over 5 years.
14. However, it is common ground that according to the latest available figures, when calculated on the basis of the revised target in RSS policy 17, using the SP district distribution to Blaby which is operative from 2001, there is an agreed housing supply of 3.6 years for the 5 year period to 2013. Calculated on the basis of the reviewed target in the more recent up to date PRSS, which is not to be regarded as a 'ceiling', it is agreed that there is only 3 years supply. The current average level of completions between 2001 and 2008 is 230 dpa, against an average target between 2008 and 2013 of 300 dpa. Against this background, the Council expresses considerable uncertainty that Blaby District will be able to meet its housing completions obligations to 2026 as set out in the PRSS, as a very substantial increase in the current rate of completions would be needed. It accepts that there is insufficient PDL in Blaby to achieve this; allocation of greenfield land and some Green Wedge land for housing will be necessary.
15. The Council has provided a range of housing trajectories. The most relevant are those with a base date of 2001 which correspond with the plan periods of RSS8 and the PRSS and which reflect the increased targets therein. Trajectory 2 has a start date of 2001 but uses targets from the RSS that are almost certainly now out of date. Trajectory 3 shows the overall housing requirement throughout Leicester and Leicestershire, but the PRSS splits completions between Districts and is almost certain to be correct in respect of Blaby. A local authority could not rely on over performance from neighbouring authorities in order to avoid meeting its own commitment. In any case, the PRSS allocates to Blaby the second lowest increase in housing numbers after Melton Borough Council.

16. Trajectories 4 & 5 set out the PRSS target figures of 8650 dwellings up to 2026 but with different splits between the PUA and the non-PUA area, within which the appeal site lies. The PRSS anticipates a 66%/34% split PUA/non-PUA with the majority of PUA completions occurring in the latter 10 years of the plan period. Trajectory 4 reflects this showing 2.47 years supply in PUA areas and 4.34 years supply in the non-PUA. This latter figure is just within the acceptable range (10-20%) by which PPS3 advises actual performance may vary from expected performance.
17. The Council submits that the PUA/non-PUA split should be revised to 70%/30%. The actual split is acknowledged to be a matter for assessment as part of the local development framework process. Trajectory 5 suggests that this would improve the non-PUA supply to within a few weeks of 5 years. The evidence to justify this approach is that 68% of completions since 2001 have been in the PUA and a general assertion that capacity is more limited in the non-PUA; but there is nothing to suggest that the PRSS 66%/34% split will be changed as part of the approved RSS. I do not consider the difference to be material.
18. The appellants suggest that there is no policy requirement to split the available supply between the PUA and non-PUA areas and that it needs to be seen on a whole of district basis. I agree with this in the sense that to use the split percentage targets to create an artificially rosy view of available supply in the non-PUA would be wrong. However that does not prevent the Council using it as a monitoring tool providing it is recognised there need not be a fixed limit on non-PUA completions in sustainable locations. Nevertheless, it is a strongly stated objective of the PRSS that new development should be prioritised in or near to the urban conurbations and this is consistent with national policy.
19. The Council accepted at the Inquiry that it is very unlikely that the LDF process would lead to any sites in Blaby District being identified soon that would contribute significantly to improving housing supply. I conclude that there is little evidence that Blaby will achieve the rate of completions set out in trajectories 4 and 5 up to 2015; and even then, there would be no real improvement in actual completions until the following year.
20. Paragraph 67 of PPS3 advises that where there is significant underperformance against the previously developed land trajectories, other measures should be considered including rejecting applications on greenfield sites until the underperformance issue has been addressed. However, the sites in the PUA in the northern part of the District that are likely to make a significant contribution are also in the countryside, much of it also designated as Green Wedge. There is acknowledged to be insufficient PDL in Blaby.
21. However, greenfield sites in the PUA must be preferable to those outside it. Whilst these are unlikely to be available in the next 5 years and probably not until 2015, I do not consider that the supply difficulties necessarily lead to a conclusion that sites will not be identified in the PUA in time to substantially increase supply in line with the PRSS. The Council now accepts the significant increase in completions needed and it is not unreasonable to suppose that 3 years hence, the LDF will have made real progress.

22. The PRSS suggests 2930 dwellings are required in the non-PUA throughout the whole of the plan period. The Council's approach translates this into a constant annualised rate of about 117 dpa (as opposed to 143 dpa between 2006 and 2011 in the PUA, rising strongly in later years). The Council has identified other potential brownfield, windfall sites and urban capacity sites in the non-PUA to add to the total of 1174 dwellings that have received planning permission, are completed or under construction at the present time. Although these should not be considered as part of the 5 year supply, I consider there is a reasonable prospect that many of these will come forward. Even ignoring them completely, the number of non-PUA completions that would be required before 2026 would be less than 117 dpa. Having said that, I accept planning permission should not necessarily be refused for additional dwellings in the non-PUA where the location is in a sustainable rural community. I also accept that an additional 110 dwellings in such a location would assist in meeting the housing completion targets set out in the PRSS. That does not, however, reduce or lessen the main thrust of emerging regional strategy which is to concentrate new development in urban conurbations.
23. The appeal site is in the lowest sequential category of location for development set out in policy 2 of the adopted RSS: 'suitable sites in locations outside of urban areas, which are or will be well served by public transport, particularly where this involves the use of previously developed land'. The Council agrees that in terms of this policy, there are no sequentially preferable higher ranked sites in or near settlements in the non-PUA area. All fall within the same category. This adds weight to the need to prioritise the PUA for future development.
24. I consider that there is a compelling case that the availability of a 5 year supply of deliverable housing in Blaby up to 2013 will fall short of the requirements of the PRSS and PPS3. Having said that, I am not convinced that, having regard to the planned ramping up of target completions in the PUA between 2011 and 2026 and the existing level of supply in the non-PUA, that significant underperformance is shown to be inevitable over the whole plan period. Using the Council's figures, the appeal site would provide almost a year's supply of housing in the non-PUA on its own. Whether the lack of a 5 year supply should lead to the release of this non-PUA greenfield site needs to be seen in the wider context of the sustainability attributes of Countesthorpe and the particular impact that it may have on the countryside in general and on the function of the Green Wedge.

#### *Sustainability considerations*

25. Whilst it lacks some community facilities, Countesthorpe has a primary school and a large secondary school that is used by pupils from surrounding settlements. The latter is also used for community functions. It is within short walking distance of the appeal site. There is no supermarket, but local shops sell most things necessary for day to day needs. These are mostly beyond easy walking distance of the site (though within easy cycling distance) being towards the eastern side of the settlement. However, the site is near Winchester Road where there is a regular bus service to the next settlement of Blaby and beyond where there are other facilities. Areas of employment on the outskirts of Leicester are a few miles away by bus or car.

26. The close proximity of the school is a positive factor, but future residents are likely to use cars for many activities including commuting and weekly shopping. Whilst the appeal development would support the facilities that are already in Countesthorpe to a certain extent, the development would not help to achieve a switch to more sustainable modes of transport or reduce the need to travel generally. Countesthorpe is the second largest settlement in the non-PUA and some housing development is expected to take place there. I conclude that overall, the sustainability attributes of the site are a neutral factor in considering its suitability for development.

*Green Wedge and character and appearance*

27. The thrust of relevant Government guidance in PPS7 *Sustainable Development in the Countryside* is that new housing development away from established settlements should be strictly controlled. However, it recognises that sufficient land needs to be made available to meet the needs of local people and that this can be within or adjoining existing villages. There is no dispute that Countesthorpe is not a typical rural village. It is near to Leicester and many residents work there and in other centres of employment within the urban area. This is reflected in the extensive areas of 'dormitory' housing within the settlement.
28. Saved LP policy C3 concerns the extent and boundaries of Green Wedges and seeks, amongst other things, to protect structurally important areas of open land that influence the form and direction of urban development, prevent coalescence and maintain the physical identity of adjacent settlements. SP policies referred to in the reasons for refusal that supported Green Wedges have not been saved. The PRSS has no Green Wedge policy as such, but recognises at paragraph 4.2.18 that established Green Wedge policies serve useful strategic planning functions in preventing the merging of settlements, guiding development form, providing a 'green lung' and as a recreational resource; and indicates that a review of existing Green Wedges in association with development will be carried out through the LDF process. This strongly reinforces the purpose of designation of Green Wedges.
29. The Green Wedges to the southwest of Leicester separate quite concentrated areas of mainly residential housing. In many places they are quite narrow. They often include recreational activities such as football pitches and golf courses and urban fringe uses such as nurseries. The area of Green Wedge between Blaby and Countesthorpe includes such uses as well as farmland and is relatively narrow, though not as narrow as other gaps such as that between Blaby and Whetstone. It seems to me that the gap here is defined by, on the one hand, a strong visual boundary of closely-knit housing from east to west on the southern edge of Blaby, and on the other, a more permeable and varied line of development on the northwestern edge of Countesthorpe that includes a school and playing field as well as the appeal site.
30. Significantly, a ribbon of mid 20<sup>th</sup> century semi-detached housing extends northwards from Countesthorpe along the east side of the Winchester Road, which connects the 2 settlements. These dwellings are older than recently erected 'estate' developments and are relatively high and visible from a distance. Inasmuch as the appeal scheme would lie to the east of and behind these dwellings, it would not physically reduce the narrowest gap between the

settlements. However, it would substantially harden the edge of the built up area, making it more prominent in the landscape. Whilst this might be hard to see from Winchester Road itself I do not consider lack of visibility from a public road to be a persuasive argument in favour of allowing planning permission. The gap or wedge is perceived by many people in many different ways, not least by those who live in the area and know it rather better than those just passing through.

31. The houses in Blaby are on lower ground compared to those in Countesthorpe. In my opinion, it would be possible, especially in winter, to see the roofs of new houses on the appeal site from houses in Blaby. In this way, the visibility of Countesthorpe would be increased. As 2 storey buildings in the main, the roofs would be easily visible above the surrounding hedges from other locations, much as the roofs of Leyslands Close are visible above hedges now, seen from surrounding footpaths. New development in fields on the edge of Countesthorpe would amount to encroachment towards Blaby which to my mind would alter the perception by residents of a substantial area of green countryside between the settlements. There would also be residents in Countesthorpe who would see the appeal development adjoining their rear gardens where currently there is none. In my estimation, houses in Blaby are not easily seen by those living in residential roads on the edge of Countesthorpe. Future residents of the appeal scheme would be aware of being much closer. In this sense, the separation function of the Green Wedge would be significantly eroded.
32. Equally serious, in my view, is the effect in longer views from footpath Z43 which passes along higher ground to the east. I consider that the roofs and gables of the appeal development would be easily visible over the hedges and trees. The scheme would add a great deal of built development in a area of green fields and woods between 2 arms of existing houses, markedly firming the built-up edge of the village. From this footpath, which provides a popular route between the settlements, there would be a visible increase in urbanisation and a strong sense of increasing constraint of the countryside. The permeable nature of the boundary of Countesthorpe would be significantly altered seen from here.
33. Walkers using footpath Z44 which passes along the northern boundary of the appeal site would notice the development more than any other group. This footpath leaves Winchester Road towards the east at the narrowest point of the gap between settlements and is the only footpath (there are only a limited number of public footpaths within the Green Wedge) accessible from that road in that direction that directly enters open countryside. I saw that it is well used. The appeal development would occupy land immediately adjacent and in my opinion, would completely change perception of the path from a country walk to little more than an urban fringe experience. It continues on to pass through open fields, which widen a little further on into more extensive countryside over the line of the former railway which is outside the Green Wedge. However, the harm to the perception of countryside between built up areas would occur at the narrowest and most sensitive point. I do not consider that the urbanising effect of the appeal proposal could be mitigated by planting or boundary treatment. The close proximity of houses with associated domestic activity, walls, fences and gardens would be very apparent.

34. I accept that the character and appearance of the area stems largely from its edge of settlement location, with buildings constantly in view, recreational activities and popular footpaths criss-crossing the fields. However I consider that reinforces the need to retain openness and a sense of separation.
35. The Council points out that Countesthorpe is surrounded by countryside most of which is not designated as Green Wedge. I have no information on whether any of that land is available for development or the subject of other applications, or any other attributes it may have. I have to consider the appeal proposal on its individual merits.
36. The Green Wedge has an acknowledged planning purpose in preventing the merging of settlements amongst others. That does not mean that circumstances will never exist to justify development of land designated as Green Wedge; the boundaries are to be reviewed as part of the LDF. But once development has taken place, there is no going back. I conclude that this particular development would cause substantial harm to the function of the Green Wedge separating Countesthorpe from Blaby. It would also seriously diminish the character or appearance of the area, conflicting with LP policy C3 and with the relevant objectives for Green Wedges set out in the PRSS.

*Other matters*

37. The appellants have provided a Section 106 (S106) undertaking with the object of securing 40 % of the new dwellings as affordable units; contributing to the provision of open space and maintaining it; the provision of a Toucan pedestrian crossing on Winchester Road and contributing to improving the cycle network; and provision of a travel pack to new residents including information on public transport options as well as 2 No. 3 month bus passes per dwelling. The appellants have also undertaken to designate as public footpaths existing informal footpaths across neighbouring land that they own which extend further into the Green Wedge and provide a link with footpath Z43.
38. There is an acknowledged continuing serious shortfall in the supply of affordable and social rented housing in Blaby District, especially in rural areas. The AMRs for 2005-2007 indicate that only 25 affordable homes were built in this period across the District. 40% represents 44 dwellings, which will make a welcome and useful contribution to the Council's objectives in this respect. However, the provision of affordable housing does not make the development acceptable if it conflicts with other policy aims; it is reasonable to expect that affordable housing will be provided as part of other developments that will come forward.
39. The provision of suitable open space and the pedestrian crossing are important planning objectives that would be necessary if the appeal was to be allowed. The travel pack would encourage use of public transport initially but it is unclear whether it would have a long term effect. To my mind, the footpath designation elsewhere would not compensate for the loss in openness that walkers will notice on part of footpath Z44 in the section leading off Winchester Road.
40. I have had regard to all other matters raised including the effect of the proposed development on the residents of Borrowcup Close; the effect on traffic levels and highway safety in the locality; the likelihood of flooding; the



ability of the schools to accommodate additional pupils; and wildlife concerns. I accept that the residents of Borrowcup Close, which is a cul-de-sac, would notice an increase in the amount of traffic with the attendant implications including noise and disturbance. The illustrative plans show access to the development through a vacant plot in Borrowcup Close a short distance from Scarborough Close. However I am not persuaded that the effect would be very different from other roads used for gaining access to housing or that the impact would be unacceptable in policy terms. The Highway Authority has not raised any objections.

41. There is no evidence that the site is likely to lead to flooding, providing that a sustainable drainage system is provided to control run-off as proposed. The local secondary school has surplus spaces and no concerns have been raised by the Council in respect of education provision. I have not been told that there are any protected species on the site and having regard to the protected woodland that would remain as a managed resource, I am satisfied that there would be no unacceptable effects on wildlife.
42. I have taken account of the site's potential to deliver housing rapidly due to its ownership by the appellant company but this does not compensate for the disadvantages of its proposed location in Green Wedge countryside.

*Conclusion*

43. I conclude overall that whilst it cannot be conclusively shown that there is a 5 year supply of housing in accordance with the requirements of the PRSS, it has not been demonstrated that the expected underperformance justifies the proposed development which would have a significant impact on the openness and function of the Green Wedge between Blaby and Countesthorpe. It would also seriously detract from the character and appearance of the countryside which is in an area of sensitive urban fringe. Whilst the increase in the supply of housing and more particularly, affordable housing would be welcome, that does not outweigh the disadvantages of the scheme in bringing settlements closer together and diminishing the value of the Green Wedge countryside in this location. It would conflict with the relevant aims of LP policy C3 and the objectives for Green Wedges set out in the PRSS.

*Paul Jackson*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Mitchell	Of Counsel, instructed by Browne Jacobson LLP
He called	
Stephen Coult BA	Browne Jacobson LLP, 44 Castle Gate,
(Hons) MRTPI FRICS	Nottingham NG1 7BJ
Ian Grimshaw BA (Hons)	The Environmental Partnership, Genesis Centre,
MA (LM) MSc MRTPI MLI	Birchwood Science Park, Warrington WA3 7BH
MISPAL	

### FOR THE APPELLANTS:

Paul Hunt	Non practising barrister and Solicitor, instructed by Harvey Ingram LLP
He called	
Colin Sackett BA MSc	RPS Planning, Highfield House, 5 Ridgeway,
MRTPI	Quinton Business Park, Birmingham B32 1AF
Iain Reid Dip TP Dip LD	Capita Lovejoy, 1 Fore Street, Birmingham
MRTPI MLI	B2 5ER

### INTERESTED PERSONS:

G R Read	5 Borrowcup Close, Countesthorpe, Leicester LE8 5XJ
Marion Broomhead	Blaby Parish Council, 13 Western Drive, Blaby,
Pauline Jordan	Leicestershire LE8 4FR

## DOCUMENTS

- 1 Letter of notification
- 2 Statement of Common Ground
- 3 Blaby Parishes Population 2001 Census, submitted by the appellants
- 4 Report to Cabinet Executive of Blaby District Council from Head of Planning and Environmental Health Services and Corporate Head of Policy and Partnerships, dated 8 September 2008, submitted by the appellants.
- 5 RSS proposed changes for Blaby applied to Structure Plan period 1996-2016, submitted by the appellants.
- 6 Trajectory 2 by Stephen Coult (agreed by him) with CLPA/ROPA split, submitted by the appellants.
- 7 Countesthorpe Community College web site extract, submitted by the appellants.
- 8 Secretary of State Decision Letter dated 29 March 2006 ref APP/F2415/A/04/1163821 & APP/F2415/A/05/1185896, relating to Land West of Farndon Road, Market Harborough, submitted by the appellants.
- 9 Housing Land Availability Information Paper 2006/7 for Harborough District Council, submitted by the appellants.
- 10 Secretary of State Decision Letter ref APP/P3040/A/07/2050213

dated 3 March 2008, relating to Land at Gotham Road, East Leake, Nottinghamshire, submitted by the Council.

- 11 Agreed list of suggested conditions.
- 12 Statement of Requirements for Developers Contributions (interim review version 2007) produced by Leicestershire County Council, submitted by the appellants.
- 13 Letter to the Inspector from the appellants dated 17 September 2008.
- 14 'Housing Supply in Charnwood' submitted by the appellants.
- 15 Revised S106 undertaking, submitted by the appellants.

#### PLANS

A1, A2 Application plans