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# Appeal Decision

Site visit made on 22 February 2016

**by Neil Pope BA (Hons) MRTPI**

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

**Decision date: 16 March 2016**

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**Appeal Ref: APP/V3120/W/15/3139377**

**Land at Fawler Road, Uffington, Oxfordshire, SN7 7RU.**

- 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 Mr Gladman Developments of Gladman Developments Ltd against the decision of Vale of White Horse District Council (the LPA).
  - The application Ref.P14/V2904/O, dated 24/12/14, was refused by notice dated 7/8/15.
  - The development proposed is a residential development for up to 42 dwellings, including site access, public open space and landscaping.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Matters relating to appearance, landscaping, layout and scale have been reserved for subsequent consideration. I have treated the Development Framework Plan (DFP) and separate Masterplan as being illustrative only.
3. The application was accompanied by a detailed / scaled drawing showing the means of access to the site. However, there is no similar drawing(s) in respect of the means of accessibility within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
4. Whilst the interpretation of 'layout' in Part 1(2)(1) of Town and Country Planning (Development Management Procedure) (England) Order 2010<sup>1</sup> includes provision for 'routes' there are no details showing the positioning and treatment of access within the site. These details are required where access has not been reserved for subsequent consideration.
5. The appellant has argued that the internal road layout is a reserved matter. In support, my attention has been drawn to the approach undertaken by two other Inspectors elsewhere<sup>2</sup>. It has also been suggested that a planning condition could be attached to an approval requiring the development to come forward 'broadly in accordance' with the DFP. However, such an approach would be tantamount to reserving consideration of important access details when approval has been sought for access at this stage. Although my decision does not turn on this matter, if I was minded to allow the appeal all access details would be required before any permission could be granted.

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<sup>1</sup> This was the Order in force at the time the application was submitted.

<sup>2</sup> APP/V3120/W/14/2223292 and APP/Y2810/W/14/2228921.

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6. **The LPA's decision relates to a revised** scheme for up to 30 dwellings. I have determined the appeal accordingly. Whilst the LPA did not consult Historic England (HE), **HE has been notified of the appeal. I have taken HE's comments** into account as well as the responses from the appellant and the LPA.
7. The appellant has submitted planning obligations<sup>3</sup> under the provisions of section 106 of the above Act. The LPA has informed me that these satisfactorily address its third reason for refusal. Whilst the County Council is concerned that the obligations do not include undertakings in respect of off-site highway works, this matter was not specified within the reasons for refusal.
8. If the appeal was to succeed it would be necessary to assess the planning obligations under the provisions of paragraph 204 of the National Planning Policy Framework (the Framework<sup>4</sup>) and the relevant provisions of the Community Infrastructure Levy (CIL) Regulations 2010.
9. The LPA has informed me that it is unable to demonstrate five years housing land supply (HLS) within the district<sup>5</sup>.

### **Main Issue**

10. The main issue is whether, in the absence of a five year HLS within the district, any adverse impacts of the proposed development, having particular regard to the effects upon: the character and appearance of the area, including the setting of the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and; the settings of various designated heritage assets, would significantly and demonstrably outweigh the benefits of the scheme.

### **Reasons**

#### *Planning Policy*

11. **The development plan includes the 'saved' policies of the Vale** of White Horse Local Plan 2011 (LP) which was adopted in 2006. My attention has been drawn to numerous policies. The most relevant policies to the determination of this appeal are GS2 (development outside built up areas), H11 (housing within villages), H17 (affordable housing), HE1 (conservation areas), HE4 (settings of listed buildings), HE10 (archaeology), NE6 (AONB) and NE9 (Lowland Vale).
12. The LP was intended to cover the period up to 2011. As set out **in the officer's** report, given the HLS position, policies for the supply of housing within the district can no longer be considered up to date. Whilst the appeal site lies outside the built-up area of the village of Uffington and the proposal would conflict with LP policies GS2 and H11, these are outdated policies. In meeting the current housing needs of the district some land outside the built up areas of some villages will have to be released for residential development. In this regard, the LPA has already granted planning permission for 36 dwellings on another site<sup>6</sup> outside the built up area of Uffington. In refusing permission for the appeal scheme the LPA does not rely on LP policies GS2 or H11. Given the HLS situation, it would be unsound to do so.

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<sup>3</sup> These include provision for 40% affordable housing and financial contributions towards infrastructure such as sport and education.

<sup>4</sup> This is an important material consideration and carries substantial weight in the determination of this appeal.

<sup>5</sup> Within its Statement the LPA has informed me that it has 4.2 years HLS, including a 20% buffer.

<sup>6</sup> Land to the rear of Station Road. As I saw during my visit, this development is now underway.

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13. LP policies H17, HE1, HE4, HE10, NE6 and NE10 are all broadly consistent with the provisions of the Framework. In addition, HE1 and HE4 reflect the duties regarding conservation areas<sup>7</sup> and the settings of listed buildings<sup>8</sup>. However, HE1, HE4 and HE10 do not include provision for weighing any harm with public benefits, as set out in section 12 of the Framework. Whilst the site is not within the AONB<sup>9</sup>, that part of policy NE6 relating to public views and an appreciation of landscape quality is relevant. In this regard, I am mindful of the duty under section 85 of the Countryside and Rights of Way Act 2000. As set out in the Framework, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
14. The Draft Vale of White Horse Local Plan 2031 (eLP) was published in 2014. The most relevant policies to the determination of this appeal are Core Policy (CP) 3 (settlement hierarchy<sup>10</sup>), CP4 (meeting housing needs), CP24 (affordable housing), CP39 (historic environment) and CP44 (landscape). As the eLP has not reached an advanced stage these policies carry limited weight.
15. My attention has been drawn to the Uffington Woolstone & Baulking Community Led Plan 2015. This reveals some of **the community's aspirations** and is likely to be used in the preparation of a Neighbourhood Plan (NP) for Uffington. However, I am not aware of any published draft NP and this 2015 Community Led Plan is not determinative to the outcome of this appeal.
16. The North Wessex Downs AONB Management Plan 2014-2019<sup>11</sup> (MP) is not part of the development plan but is a material consideration which carries moderate weight. The special qualities of the AONB are identified as including: the distinctive northern Downs Plain and Scarp where it plunges from the chalk plain to the Vale of White Horse, creating a dramatic recognisable horizon; the Iron Age hillfort at Uffington Castle and; the extensive rights of way network which offers many opportunities for quiet enjoyment of the countryside.
17. **I note the 'North Wessex Downs AONB Position Statement Setting' (PS) dated 2012.** This does not form part of the MP and does not appear to have been through the same consultation process. It carries limited weight in this appeal. Amongst other things, the PS states that views out of the AONB and views towards or into it from the surrounding areas can be very significant.

### ***Benefits***

18. The proposed development would assist in addressing the shortfall of housing within the district and would increase the mix and choice of residential accommodation. The amount of new housing would be unlikely to undermine the provisions of eLP policy CP3 and the site is adjacent to the existing built up area of Uffington as provided for in eLP policy CP4. In addition, the affordable housing would help meet the identified needs<sup>12</sup> of those who are unable to access the local housing market. This element of the proposals accords with LP policy H17 and exceeds the threshold in eLP policy CP24. These benefits of the scheme can be given considerable weight in the planning balance.

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<sup>7</sup> Section 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

<sup>8</sup> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

<sup>9</sup> The site is approximately 1.65km north of the boundary of the AONB.

<sup>10</sup> Uffington is identified as a Local service Centre in the text but a Larger Village on the accompanying map. The LPA has explained that there is a drafting error in the eLP and Uffington is a Larger Village. I understand that this error will be corrected as the eLP proceeds.

<sup>11</sup> Prepared by the AONB Partnership.

<sup>12</sup> The Oxfordshire Strategic Housing Market Assessment 2014.

19. The illustrative layout indicates that the proposal would provide additional public open space and footpaths for use by incoming residents as well as those already living in the area. The potential also exists to provide some very modest enhancement to biodiversity. I afford these matters limited weight.
20. During the development phase, the proposal would support jobs in the construction industry. After completion, incoming residents would help support and sustain local services and facilities. These economic benefits can also be given some limited weight in the overall planning balance.
21. The proposal would secure **revenue from the Government's New Homes Bonus** scheme and generate additional Council Tax payments. However, there is no evidence to demonstrate that this revenue / payments could help to make the development acceptable in planning terms. It would therefore be inappropriate to give these matters any weight in determining the appeal.
22. If the financial contributions provided for in the submitted planning obligations are necessary for the development to proceed they would not amount to benefits to be weighed in the planning balance.

### ***Character and Appearance***

23. The appeal site comprises 3.43ha of pasture on the edge of Uffington. This single open field is surrounded on three sides by residential development and is bisected by several public footpaths<sup>13</sup> (FP). The site includes the remains of Medieval ridge and furrow earthworks and from sections of the FPs there are views of the dramatic chalk scarp to the south (White Horse Hill), including the Scheduled Monuments (SM) at Dragon Hill and Uffington Castle<sup>14</sup>. The gardens of the Grade II listed buildings at Field Cottage, Chalkstone Cottage and Meadowgold Cottage<sup>15</sup> abut part of the northern boundary of the site. The Uffington Conservation Area (UCA), which includes the former home<sup>16</sup> of the Poet Laureate Sir John Betjeman, lies to the east and beyond Patricks Orchard.
24. The site lies within the Lowland Vale landscape zone as defined in the LP. This comprises a bowl of countryside between the AONB and the North Vale Corallian Ridge. I note from the LP that this area has been celebrated for the contribution it makes to distant views from the higher land. It is also distinctive and valued for its own quality. The long views over the patchwork quilt of fields, farms and villages are identified as an essential part of the landscape quality of the district. When seen from areas such as Uffington Castle, the open views of the Lowland Vale have retained their integrity.
25. Within the Oxfordshire and Wildlife Landscape Study (2004) the site forms part of the Uffington Local Character Area. The description of this Character Area includes the mix of medium to larger-sized fields enclosed by hedges.
26. The appeal site does not form part of any designated landscape. However, as I saw during my visit, the unspoilt open qualities of this field, its boundary hedges, ridge and furrow earthworks and the very attractive views of the chalk scarp to the south, including the above noted SMs, make an important contribution to the delightful countryside setting to Uffington. The site also

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<sup>13</sup> FP 387/19 runs along the western boundary with Patricks Orchard, FP 387/27 runs east - west across the site and FP 387/16 bisects the north eastern corner of the site between Upper Common Lane and Fawler Road.

<sup>14</sup> Approximately 2km from the site.

<sup>15</sup> Listed as 1, Upper Common.

<sup>16</sup> Gerrards Farm.

affords an appreciation of the landscape context of the above noted listed buildings. These attributes provide much interest when walking the FPs across the site. Moreover, from White Horse Hill the site is seen as part of the patchwork of fields that can be experienced in the open views across the Lowland Vale. It forms part of the setting of the AONB. It appears to me that the appellant may have misjudged the visual / landscape value of the site.

27. All landscapes have some value and I note the ruling in Stroud District Council v SSCLG V Gladman Developments Limited [2015] EWHC 488 (Admin). However, it is not commonplace to experience such clear views of a dramatic chalk scarp that includes nationally important archaeological remains, whilst walking through a field that contains ridge and furrow earthworks and an appreciation of the landscape context of several vernacular listed buildings.
28. Given the representations by the Parish Council and numerous local residents, there is merit in the argument made by the LPA and some others that the appeal site forms part of a valued landscape to which paragraph 109 of the Framework applies. Even if the **site's attributes do not 'take it out of the ordinary' I have found it important to the village setting**. Furthermore, the Core Principles of the Framework include recognising the intrinsic character and beauty of the countryside when assessing development proposals.
29. The appellant has informed me that the proposal would have a developable area of 1.44ha. Most of the hedgerows and trees would be retained and 58% of the site would comprise green infrastructure. Nevertheless, the proposed buildings, roads and other hard surfaced areas would significantly alter the character and appearance of the site.
30. The loss of a considerable part of this field to development, including a lengthy estate road as shown on the illustrative masterplan, would have a marked adverse effect upon the unspoilt open qualities of the site. Much of the ridge and furrow earthworks would be lost and the village edge would intrude into the surrounding countryside eroding the charming setting of the settlement. This is likely to be compounded by street lighting and the proposed footway and dropped kerbs along Fowler Road which would give a suburban edge to this part of Uffington and erode its intrinsic rural character. This weighs against an approval and carries considerable weight in the planning balance.
31. Instead of walking through attractive open countryside with largely unfettered views of the chalk scarp and SMs to the south, the experience from the FPs across the site would be tarnished by the unmistakable presence of the proposed housing estate. In all likelihood, views from FP 387/27 of the listed buildings to the north and the AONB to the south would either be interrupted by new houses and / or experienced from, or immediately adjacent to, an estate road. From FP 387/19, walkers would pass between two housing estates and would lose the amenity of the open countryside to the east. Whilst, in all probability, most of the houses would be set back from FP 387/16, the views of the chalk scarp would be seen in the context of the proposed development, including the estate road.
32. The proposal would be likely to seriously detract from the enjoyment of the FPs that cross the site and would harm the appearance of the area. Although the new footpaths around the site and public open space would be used by incoming occupiers and some existing residents, they would be inadequate compensation for the change in views / experience from the existing public

- rights of way and the ensuing loss of amenity from the public realm. This also carries considerable weight in the planning balance.
33. From Dragon Hill, White Horse Hill and parts of Uffington Castle the proposed development would be readily visible. Whilst the photomontages in the **appellant's** Appeal Statement are only a tool to aid decision making, the existing photo viewpoint in that Statement was very different to the experience I gained from this part of the public realm and the AONB. At the time of my visit, Uffington and the appeal site could be clearly seen. Although different climatic conditions will affect the quality of views, the photomontages, with the site in haze and set within **the foreground 'distraction' of numerous people**, were unhelpful in assessing the likely impact from this part of the public realm.
34. The southern boundary of the appeal site does not extend beyond the southern limits of Patricks Orchard. The proposed layout could be designed with houses set back from the southern boundary so as not to extend the settlement closer to the AONB. Landscape planting could assist in breaking up the mass of new buildings. Nevertheless, from the chalk scarp the proposed houses and roads, including the lengthy carriageway across the site that would be required to link the western part of the development to Fawler Road, would give a suburban edge to the village and diminish its rural setting. I have already found above that the harm to the setting of the village carries considerable weight.
35. Unlike the permitted housing scheme at Station Road, the proposal would occupy a field between the AONB and the southern edge of the village. The loss of the appeal site **to residential development would 'nibble' at the** countryside between this designated landscape and Uffington. In important long open views across the Lowland Vale that are experienced from the chalk scarp within the AONB the proposal would adversely affect the intrinsic qualities of this part of the Vale. However, as I saw during my visit, the site forms part of a wide panorama. This includes prominent developments such as the remains of Didcot Power Station, a windfarm and the urban edge of Swindon, all of which are set within a large expanse of countryside.
36. The proposed development would not be unduly prominent in the landscape or detract from the quiet enjoyment of the rights of way within the AONB. It would have a slight adverse impact on the integrity of the Lowland Vale and the quality of views from public vantage points along the chalk scarp at White Horse Hill. There would be some tension with the objectives of the MP and PS but the proposal would not result in substantial harm to the setting of this designated landscape as argued by the LPA. Whilst I note the concerns of the AONB Partnership, the LPA did not consult the Partnership on the amended scheme. Having regard to duty in respect of AONBs, I attach limited weight to the adverse impact upon the setting of this nationally important landscape.
37. Given my findings above, the proposal would harm the character and appearance of the area and conflict with the provisions of LP policies NE6, NE9 and eLP CP44.

### ***Settings of Designated Heritage Assets***

38. Another Core Principle of the Framework is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In determining planning applications, paragraph 131 of the Framework includes a requirement

- for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.
39. Furthermore, paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated **heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.**
40. The LPA has argued that the proposal would harm the settings of the above noted designated heritage assets<sup>17</sup>. Insofar as the listed buildings and UCA, I have regard to the relevant statutory duties<sup>18</sup>.
41. These listed buildings are late 17<sup>th</sup> century cottages with chalk walls on sarsen footings and thatched roofs. Over time they have been enlarged. As I have already noted above, the appeal site forms part of the countryside / rural surroundings in which these designated heritage assets are experienced. There are also views across the site towards White Horse Hill from these properties. The significance of these assets lies primarily in their inherent architectural qualities and historic building fabric. However, the unspoilt open attributes of the site are integral to an appreciation of the significance (historic interest) of these assets within this rural area.
42. The appeal site makes a small but positive contribution to the historic landscape settings of these listed buildings. Whilst no direct documentary evidence has been submitted linking these assets with the site, evidence submitted by the Parish Council in respect of the neighbouring Style Cottage indicates these cottages were built for farm labourers. It would not be fanciful to think that some of the labourers would have worked in the adjoining fields. I concur with the appellant that the appeal site is in a sensitive location with regards to built heritage.
43. As I have already noted above, the proposed development would considerably change the character and appearance of the appeal site. If the appeal was allowed these neighbouring listed buildings would back onto a housing estate rather than an open field. They would be experienced in the context of a suburban development rather than the open countryside. This would detract from the contribution the site makes to the significance of these assets. For Chalkstone and Meadowgold Cottages, which are orientated to take advantage of the views of the surrounding countryside including the chalk scarp, the development would also intrude into the unspoilt historic rural scene and diminish the experience of traditional cottages in the Oxfordshire countryside. The proposal would conflict with LP policy HE4 and eLP policy CP39.
44. **I disagree with the LPA's assessment that the** adverse effects upon the significance of these listed buildings would comprise substantial harm to which paragraph 133 of the Framework relates. This is a very high threshold of harm which the proposals would not breach. The adverse effects would amount to less than substantial harm and would fall to be considered under paragraph 134 of the Framework. However, less than substantial harm does not amount to a less than substantial planning objection. This harm carries considerable weight in the overall planning balance.

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<sup>17</sup> Including the White Horse hill figure SM.

<sup>18</sup> Sections 66(1) and S72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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45. At its nearest, the appeal site is approximately 130m from the edge of the UCA and on the opposite side of Patricks Orchard. The UCA includes the historic core of the village with its distinctive chalkstone and thatched cottages, as well as the 13<sup>th</sup> century Church of St. Mary. My attention has not been drawn to any conservation area appraisal and the LPA has not explained how the site contributes to the significance of this designated heritage asset. I concur with the appellant that the site makes a minor positive contribution to the setting of the UCA by reinforcing the rural nature of the village. Given the degree of separation and the intervening development, I agree with the appellant that the proposal would have a negligible impact on the significance of the UCA. It would preserve the setting of this asset in accordance with LP policy HE1.
46. The significance of the above noted SMs lies primarily in their archaeological interest, including methods of construction. The White Horse hill figure and Dragon Hill are striking examples of prehistoric hill figures and the former can be seen for many kilometres. Uffington Castle is a large Iron Age univallate hillfort closely associated with these SMs. It provides an insight into the religious and secular needs and beliefs of early communities. These designated heritage assets can be experienced from large swathes of the surrounding countryside, including the appeal site.
47. As noted by HE, the significance of Uffington Castle and the White Horse hill figure lies partly in the fact that they were clearly intended to dominate the landscape and be viewed from a large area across the Vale of White Horse. The unspoilt open qualities of the appeal site afford an understanding and appreciation of the historic significance of these assets. However, it forms a very small part of the overall settings of these SMs and makes a very limited contribution to their significance.
48. Given the extent of separation between the proposed development and these SMs and the limited contribution the site makes to their significance, the proposal would be likely to have only a very slight adverse impact upon the significance of these assets. As noted by HE, there is no evidence that this particular location was intended to be a significant one for viewing the White Horse at the time of its creation. The impact of the new houses and roads within the site would not significantly detract from the settings of these SMs. **On balance, the adverse impact would not be so great as to 'damage' the settings of these SMs and render the proposal in conflict with LP policy HE10.**

### ***Other Matters***

49. The appeal site was included within **the Council's Consultation Draft Strategic Housing Land Availability Assessment 2014 (SHLAA)**. This supports the **appellant's argument that, in principle, Uffington is a 'sustainable settlement'** for accommodating the scale of housing proposed. In this regard, I have noted above the permission for a similar sized development at Station Road. Whilst I also note the comments in the SHLAA regarding the suitability for development of the land south of Upper Common Road, this document does not examine the planning merits and impacts to the same extent as a planning application or appeal. The SHLAA does not convey any tacit approval.
50. I note the concerns of some interested parties regarding flood risk. During my visit, part of site was waterlogged with surface water lying in the south western **corner of the field**. **The appellant's Flood Risk Assessment (FRA)** notes recurrent problems of flooding to Upper Common Lane **and the site's inclusion**



within Flood Zone 1 (low risk of flooding). Amongst other things, the FRA advises that floor levels should be raised to 600mm above the existing bank top levels to avoid the risk of flooding and the provision of new balancing facilities with attenuated discharges.

51. Those with responsibility for ensuring the development would not be at undue risk of flooding or increase the risk of flooding elsewhere have considered the proposals and have not objected. Whilst residents are very familiar with local incidents of flooding, in the absence of any contrary technical evidence it would be unsound to withhold permission on land drainage / flood risk grounds.
52. The proposed development would alter the outlook for some neighbouring residents and would increase activity in and around the site, especially during the construction phase. However, the dwellings could be sited and designed so as not to result in any significant overlooking and a planning condition (construction management) could be used to safeguard the living conditions of those living alongside whilst the development was taking place.
53. My attention has been drawn to numerous appeal decisions. These include a 1984 decision<sup>19</sup> for two dwellings on part of the appeal site. However, no two sites / proposals are exactly the same and each case must be determined on its own planning merits. The planning policies are materially different to what they were in 1984 and although the illustrative layout indicates a small row of dwellings along Fawler Road, which could appear as '**ribbon development**', the way in which buildings would be provided has yet to be determined. The other appeal decisions do not involve sites of the same size within the Lowland Vale and within the settings of the AONB and the above noted designated heritage assets. These other decisions do not set a precedent that I must follow.
54. I note the strength of objections from the affected local community, including the representations made by the Parish Council and the local Member of Parliament. I am also mindful of **the Government's localism agenda**. However, amongst other things, the Framework seeks to boost significantly the supply of housing. It is also a long established principle of planning law that local opposition or support for a development proposal is not by itself adequate grounds for refusing or granting planning permission.

### ***Planning Balance / Overall Conclusion***

55. **When the totality of the 'harms' that I have found** to the character and appearance of the area and to the settings of designated heritage assets are weighed in the planning balance I find that this would significantly and demonstrably outweigh the benefits of the scheme. Although there would be compliance with some aspects of the LP the proposal would conflict with the overall thrust of the development plan. Moreover, the proposal would not satisfy the environmental dimension to sustainable development as defined in the Framework. I therefore conclude that the appeal should not succeed.

*Neil Pope*

Inspector

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<sup>19</sup> T/APP/V3120/A/84/017833/P4.