



## **Holybourne Village Association – Formal Representation**

### **Bentley Appeal Decision – a Determinative Precedent**

**Application Reference:** EHDC-25-0748-OUT

**Proposal:** Outline planning application for up to 160 dwellings, all matters reserved except access

**Location:** Land to the rear of 136–150 London Road, Holybourne

**Date:** January 2026

#### **1. Summary Position**

Holybourne Village Association (HVA) objects to the above application in the strongest possible terms. The proposal is fundamentally contrary to the adopted Development Plan, national planning policy, and EHDC's own published evidence base. It would result in severe and demonstrable harm across multiple fronts: the settlement hierarchy, landscape character, heritage assets, highways and transport, drainage and flood risk, designated Local Green Space, and the overarching principles of sustainable development. Each of these issues independently provides a strong reason for refusal - some engaging NPPF Footnote 7, which disapplies the tilted balance.

EHDC's own evidence base - the 2019 Site Assessment Background Paper and the 2021 Strategic Site Options Paper - already concluded that this site was unsuitable for large-scale development. Nothing material has changed since those assessments.

#### **2. Bentley Appeal Decision – A Determinative Precedent**

The Bentley appeal (APP/M1710/W/23/3332327) is not just a material consideration; it is a benchmark case under the same policy framework (JCS CP2, CP10, CP19, CP20, CP29). EHDC rigorously defended Bentley on the basis that large-scale development in a Level 4 settlement:

- Conflicts with the spatial strategy and settlement hierarchy.
- Causes unacceptable harm to rural character and landscape.
- Cannot be justified by housing shortfall.

The Inspector agreed and dismissed the appeal, stating:



*“Policy CP2... directs growth to the most sustainable settlements based on a hierarchy... The JCS identifies Bentley as suitable for small scale local development”.*

*“The scale of the development would thus exceed that for which a social or economic need has been demonstrated to exist locally... It would not reinforce the role and function of the settlement within the hierarchy”.*

*“Resulting loss of openness within the village layout... critically undermined... development would not be consistent with the objectives set out within the Landscape Character Area”.*

Bentley and Holybourne share:

- The same settlement tier (Level 4);
- The same Landscape Character Area - Northern Wey Valley; and
- Similar rural edge function and limited services.

EHDC successfully argued that housing shortfall does not override hierarchy or landscape harm. To now treat Holybourne as part of Alton (Tier 1) outside of a lawful Local Plan review process is ultra vires and procedurally inconsistent.

### **3. Legal and Procedural Risk**

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 and case law (*North Wiltshire DC v Secretary of State*), previous appeal decisions are material considerations. Bentley is not just material - it is determinative.

Failure to treat Holybourne as a Tier 4 settlement cannot be justified under current planning policy. It would expose the Council to judicial review risk for irrational and inconsistent decision-making. The risk is amplified because Bentley was rigorously defended by EHDC and upheld by the Secretary of State.

### **4. Additional Appeal Decisions Reinforce National Approach**

While Bentley alone is decisive, other recent appeals confirm a consistent national approach:



- **Tibberton (APP/H1840/W/23/3320041)** – 100 dwellings refused; “Scale of development would be disproportionate and out of context with the existing settlement’s size... adverse impacts significantly and demonstrably outweigh benefits.”
- **Southminster (APP/X1545/W/24/3351697)** – 220 dwellings refused; “Substantial adverse impacts to the character of the host landscape... presumption in favour does not apply.”
- **Aston Clinton (APP/J0405/W/24/3342894)** – 93 dwellings refused; “Clear conflict with spatial strategy... harm to character and appearance attracts full weight.”
- **Thakeham (APP/Z3825/W/24/3350094)** – 247 dwellings refused; “Grossly out of scale with the settlement... reliance on private vehicles... adverse impacts significantly and demonstrably outweigh benefits.”

These decisions show:

- Housing shortfall does not justify abandoning spatial strategy.
- Landscape and character harm remain determinative even under tilted balance.
- Large-scale growth in smaller settlements is repeatedly found unsustainable.

The local community has already provided these appeal decisions demonstrating how Inspectors have applied NPPF policy in analogous circumstances. To date, HVA has seen no evidence that consultees or EHDC have meaningfully engaged with the significance of these precedents.

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 and case law (e.g., *North Wiltshire DC v Secretary of State*), previous appeal decisions are material considerations. These material considerations are each directly comparable to the current planning application and carry significant weight. If EHDC considers otherwise, or proceeds to support the application despite these precedents, HVA will expect to see clear and robust justification why. Failure to have full regard to their relevance - including the specifics of the cases - given they have been raised as material considerations, will leave the Council open to procedural and legal challenge.

## 5. Conclusion

Bentley sets the benchmark for Holybourne. EHDC cannot lawfully or credibly disregard its own successful appeal reasoning. Combined with other precedents, the position is



clear:

Large-scale development in Level 4 villages conflicts with adopted policy, causes irreversible harm to rural character, and fails the sustainability tests of the NPPF.

The disproportional scale of the proposed development, in relation to Holybourne's position within the settlement hierarchy, is not the only barrier to approval. This site fails on multiple fronts: heritage, highways, drainage, flooding, settlement hierarchy, landscape harm, designated Local Green Space, and sustainability. Each of these issues independently provides a strong reason for refusal - some engaging NPPF Footnote 7, which disapplies the tilted balance. Many of these specific issues were not present at Bentley, demonstrating that the Holybourne proposal is even more harmful and less sustainable than the Bentley appeal scheme that EHDC itself so rigorously defended and successfully upheld.

EHDC's own evidence base - the 2019 Site Assessment Background Paper and the 2021 Strategic Site Options Paper - already concluded that this site was unsuitable for large-scale development. Nothing material has changed since those assessments; if anything, the harm is now greater.

In light of these unresolved policy conflicts and determinative precedents, continued technical engagement with the applicant appears unlikely to alter the fundamental planning conclusion. The correct course of action is clear: refuse the application without delay. Doing so will uphold the integrity of the planning process and avoid exposing the Council to procedural and legal risk.



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## APPENDIX

### BENTLEY APPEAL DECISION



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## **Appeal Decision**

Hearing held on 9 April 2024

Site visit made on 9 April 2024

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 03 May 2024

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**Appeal Ref: APP/M1710/W/23/3332327**

**Land West of Broadacre, School Lane, Bentley, Farnham, Hants. GU10 5JP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr Robert Camping against the decision of East Hampshire District Council.
- The application Ref is 59717/001.
- The development proposed is up to 33 residential dwellings, including fifteen affordable and nine self-build housing units, together with the associated vehicular and pedestrian access, landscaping, and public open space.

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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The application was submitted in outline with all matters except access reserved for future consideration. As the shape of the site would constrain the layout, the indicative plans do however provide a reasonably good indication of the details likely to be submitted at a later stage.
3. The proposal changed during the Council's determination of the application, with the number of dwellings reduced from 34 to 33. This is reflected in the description within the banner heading above, from which I have omitted superfluous explanatory text.
4. The application was partly refused on the basis that information in relation to flood risk was missing. Following the provision of this information the Council has withdrawn its objection.
5. The application was also partly refused on the basis that provision of affordable housing had not been secured. This matter has however been addressed by the provision of a Section 106 Agreement within the context of the appeal.

### **Main Issues**

6. The main issues are:
  - whether the site is a suitable location for the proposed development having regard to: (a) access to services/facilities by future occupants of the development; and (b) its effect on the character and appearance of the area; and



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- the effect of the development on the living conditions of occupants of 16 and 18 Eggars Field in relation to privacy.

### **Reasons**

#### *Location*

7. Policy CP2 of the East Hampshire District Local Plan: Joint Core Strategy 2014 (the JCS) sets out the Council's spatial strategy. This directs growth to the most sustainable settlements based on a hierarchy, and the use of settlement policy boundaries (SPB). In this it is supported by Policy CP31 which highlights the need for development to be located to reduce the need for travel. The JCS's approach to managing patterns of growth remains broadly consistent with that set out within the National Planning Policy Framework (the Framework). Within this context Bentley is categorised as a 'Level 4' settlement within which there is a limited range of local services.
8. The site itself is located outside the SPB, within the defined countryside. Though Policy CP19 of the JCS imposes tight constraint within such locations, scope for development outside SPBs is set out within Policy CP10 of the JCS. This is elaborated upon by the Housing Outside Settlement Boundaries Supplementary Planning Document 2023 (the SPD). In this regard the Council's locational concerns relate to the effects of travel by future occupants of the development to access services/facilities, and the effect of the development on the character and appearance of the area.
  - (a) *Access to services/facilities*
9. Bentley supports a limited range of services and facilities, which include a church and hall, primary school, nursery, pub, and a shop with a post office. The local surgery has however recently closed. Even in the unlikely event that the use of supermarket home delivery became universal, future occupants of the development would still need to travel elsewhere to access a full range of day-to-day services/facilities.
10. Larger settlements are not practically accessible on foot from Bentley, and the roads between do not provide attractive conditions for cyclists. The village is however served by 2 bus routes, one of which provides a regular 6-day service, and a railway station is located a short distance to the south. Future occupants of the development would not therefore be wholly reliant on use of private vehicles to access services/facilities elsewhere, or for purposes of broader travel. Trips in private vehicles could nonetheless be expected to rise, thus giving rise to environmental harm through increased exhaust emissions. Despite rising use of and support for electric vehicles, such harm remains a critical concern within the context of climate change.
11. The JCS identifies Bentley as suitable for small scale local development, and that which is necessary to meet specific local needs. The environmental effects of travel are thus considered broadly acceptable within this context. Insofar as the proposed development could not be accommodated within the SPB, 'community need' therefore exists as a key consideration within Policy CP10. National policy for rural housing set out within the Framework similarly emphasises that decisions should be responsive to local circumstances, and support housing developments that reflect local needs.



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12. Whilst not an exception scheme, the development would nonetheless partly serve a local need for affordable housing, with a reasonable prospect that at least 6 units would fulfil a local demand for affordable rented accommodation. In doing so it would slightly exceed the general requirement for 40% provision set out within Policy CP13 of the JCS. The rationale for the overall composition of the development is however unclear, including the role within it played by open market housing. In this regard the evidence before me does not indicate that the provision of open market housing would serve any specific need incapable of being met elsewhere within the district.
13. The development would also provide 9 serviced plots for self-build housing against a current district-wide demand for 122 plots. Given the duty to grant enough development permissions to satisfy the above demand by October, approval of the scheme would make a very small but positive contribution towards that end. Locational expressions of interest recorded within the Council's register could however have arisen from anyone in the broader district, and multiple locations can be selected. Again, in the absence of more detailed evidence, it appears that demand for self-build plots could be equally well served by granting development permissions in locations elsewhere in the district. In this regard the above duty, which would remain to be fulfilled whatever my decision in this appeal, is not an overriding consideration.
14. Future occupants of the development would be likely to use and thus provide support for local facilities/services. However, the same would apply to a residential development of any given size. In that context, the enhancement or maintenance of social and economic vitality within Bentley would not necessitate a development whose size otherwise exceeded local needs.
15. The emerging Local Plan seeks to revise the settlement hierarchy based on accessibility to services/facilities rather than their number. The proposed categorisation of Bentley as 'Tier 3' would see it grouped with settlements which currently fall within Level 3 of the existing hierarchy. This implies greater scope for future development than was previously envisaged. Within this context the emerging Local Plan contains a draft allocation of 20 dwellings in Bentley.
16. The emerging Local Plan however remains at a very early stage, and whilst there would be some overlap, the plan period would obviously differ from that of the JCS. There would furthermore be no direct correlation between the draft allocation and the proposed development given significant differences in terms of site location and numbers. The fact that the appeal site might be considered marginally more accessible does not alter this. Even considered within the context of existing Level 3 settlements, the JCS again identifies scope for development with reference to local need. As such, the above considerations do not lend weight to the appellant's case.
17. The scale of the development would thus exceed that for which a social or economic need has been demonstrated to exist locally. Consequently, the adverse environmental effects of travel to which it would give rise would not be justified. Nor could they be fully mitigated. It follows that the development would not reinforce the role and function of the settlement within the hierarchy, and that considered in this way, it would not be sustainably located.
18. For the reasons set out above I conclude that the site is an unsuitable location for the proposed development given the overall adverse environmental effects



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likely to arise from travel by future occupants to access services/facilities. It would as such conflict with Policy CP10 of the JCS, as supported by the SPD, and Policy CP31 of the JCS as outlined above.

*(c) Character and appearance*

19. Bentley was historically a settlement of 2 parts. This is described within the Historic Rural Settlement Survey, which defines the parts as originally consisting of an isolated church to the north and a regular row, or ribbon of development, along London Road to the south. The survey's identification of an area of archaeological potential in the northern part of the village, seems to have been misinterpreted in subsequent publications as defining an area of historic nucleated settlement. Be that as it may, a clear distinction in character continues to exist between the southern and northern parts of the village.
20. The southern part of the village retains a frontage on London Road but has seen a northward spread of modern suburban cul-de-sacs to its rear. These developments, which include Eggars Lane, extend up to the southern boundary of the appeal site. Beyond this edge the change in character from suburban to rural is both abrupt and striking. To the north development is generally scattered, with the layout characterised by its openness, by green open space, and by the narrow dimensions of country lanes. This pattern has been eroded along the northern section of School Lane by infilling of the frontage. Nonetheless, the dimensions and enclosure of the lane, together with the single plot layout to either side, continue to exhibit a rural character. This contrasts starkly with the suburban layout of Eggars Lane immediately to the south.
21. With the exception of Broadacre, the site itself is an 'L' shaped field forming a green open space. As outlined above, its position within the layout of the village directly informs and underpins the change in character and identity north to south. In this regard it is less a 'gap' than a vital space which acts to both spatially and visually differentiate surrounding components of the village layout, and provide a sense of linkage with the broader landscape to the north. The positive role played by the site is readily perceived in multiple public views from Hole Lane, School Lane, Eggars Lane, and from the public footpath immediately to the west. Together these provide a circular walking route fully encompassing the site.
22. The appeal scheme would see the space provided by the site filled by a further northward sprawl of suburban development. Resulting loss of openness within the village layout, and the coalescence of surrounding components, would result in the difference in character and identity between north and south being critically undermined. The role that this plays in providing a sense of local distinctiveness would in turn be significantly diminished. The adverse effects would be greatly accentuated by works to provide the site access on School Lane together with related modifications to the highway. The form, dimensions and details of these works would be wholly at odds with the existing rural character of the northern section of the Lane.
23. The development would share some characteristics with existing suburban development to the south, and a vernacular styling could be used. But the indicative plans nonetheless show a layout that would be both strongly insular and inward looking in character. It would therefore be poorly integrated with existing development within its setting. Little scope appears to be available to address this within the context of the reserved matters.



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24. The enclosure of the site could be strengthened by planting. But though such planting could reduce the extent of views into the site, the development would not be hidden, and attempts to screen it otherwise emphasise its insularity. Planting might additionally result in localised enhancement of boundaries, but this could be more meaningfully achieved in the absence of development.
25. The East Hampshire Landscape Character Assessment (LCA) places Bentley in the Northern Wey Valley. Within this context the site is well contained, with the surrounding view constrained by existing development and rising ground to the north. Considered in this way, the development would not have any more than a localised effect on the broader landscape.
26. The site and settlement can nonetheless be experienced within their broader landscape setting through use of St Swithuns Way. This long-distance footpath forms part of an ancient route which partly follows Hole Lane immediately to the north of the site. The LCA highlights its historic and ongoing role in linking settlements along the valley, and sets out the management objective of conserving the individual identity of these settlements. As I have already established above that the identity of Bentley would suffer significant erosion, and that this would be perceived from Hole Lane, it follows that the development would not be consistent with the objectives set out within the LCA.
27. For the reasons outlined above I conclude that the site is an inappropriate location for the proposed development given the significant harm that it would cause to the character and appearance of the area. The development would therefore conflict with Policy CP29 of the JCS which requires development to respect the character, identity and context of the district's villages; Policy CP20 of the JCS, which, within the context of landscape, seeks to protect and enhance local distinctiveness informed by the LCA; and, given the scheme's broader conflict with Policy CP10 of the JCS, Policy CP19 of the JCS which seeks to protect the countryside for its own sake.

*Living conditions*

28. The rear gardens of dwellings along the north side of Eggars Road abut the southern boundary of the appeal site. In common with other properties on the north side of Eggars Road, the boundaries of No 16 and 18 lack any solid/substantial enclosure.
29. The indicative plans show dwellings positioned reasonably close to the boundary between the appeal site and the gardens of Nos 16 and 18. Though the back-to-back distance between dwellings is shown to exceed 26 metres, the gardens of Nos 16 and 18 make up a disproportionate amount of this space. This is particularly pronounced in the case of No 16. The circumstances thus exist in which undue overlooking of back garden space might arise.
30. The plans are however indicative and not fully detailed. Even within the context of constraint imposed by the shape of the site, the reserved matters of scale, layout and landscaping would together provide sufficient scope to achieve an acceptable relationship between the development and the gardens of Nos 16 and 18.
31. Securing the privacy of Nos 16 and 18, as too the gardens of the proposed dwellings, would partly involve the provision of a more solid/substantial



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boundary treatment along the site boundary. This would result in the loss or curtailment of pleasant private views across the site. Ordinary enclosure of the boundary cannot however be considered unacceptable on this basis.

32. For the reasons outlined above I conclude that it would be possible to design the development in such a way that it would not have an unacceptable effect on the living conditions of occupants of Nos 16 and 18. No conflict therefore arises with Policy CP27 of the JCS which restricts development that would have an unacceptable effect on the amenity of the occupiers of neighbouring properties through loss of privacy.

#### **Other Considerations**

##### *General promoted benefits*

33. Public access would be provided into the site, with possible linkage to the footpath on its west side. The advantages of this are however unclear. Though a small area of open space would be retained, the current value and attractiveness of the site would be lost as a result of its development. Linkage to the footpath would itself offer little broader benefit given the network of routes which already exist around the site. The provision of ordinary pedestrian access into the development would otherwise be wholly unremarkable.
34. As the density shown on the indicative plans would fall within the scope of local variation, it is reasonable to conclude that the site would be efficiently developed. This is however a general expectation set out within national policy, and it does not have any bearing on the harm I have identified above.
35. It is suggested that CIL payments and Council tax should attract weight. However, insofar as these help to fund local services and infrastructure necessary to support new development they are not distinct benefits. Likewise, provision of on-site drainage is a general expectation, as is biodiversity enhancement, which in this case would be partly provided off site.
36. The above considerations do not therefore weight to the appellant's case.

##### *Housing supply*

37. Preparation of the emerging Local Plan has reached a stage where the Council is currently required to identify a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing. Here the parties dispute the level of supply, the Council claiming 4.74 years and the appellant as low as 3.2 years. The latter figure is however partly based on the assertion that the Council's housing requirement figure should be calculated without taking account of the South Downs National Park. The latter accounts for around half of the district's land area, and is administered by a separate authority. In these circumstances the Planning Practice Guidance clearly outlines scope for a locally derived housing requirement figure to be used, and the Council has provided detailed justification for its approach. Taking this into account, the appellant's figure rises to 3.98 years.
38. Shortly after the Hearing an appeal decision relating to 46 Lymington Bottom was issued. Housing supply was also considered in the Inquiry held in that case, with all the disputed sites in the current appeal covered together with others. In that case, which similarly proceeded on the basis of the Council's



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locally derived housing requirement figure, the Inspector found that the Council could demonstrate a supply of 3.59 years.

39. I am not party to the evidence that was presented to the Inspector, and his findings clearly turned on that evidence. However, based on his reasoning, similar arguments appear to have been advanced. Simply translating his findings in relation to similarly disputed sites and sources to the current case would provide a supply figure of over 4 years. Crucial in this regard are the Inspector's additional findings in relation to large sites with detailed planning permission. Though this was not a category subject of dispute in the current case, the Inspector's detailed findings in relation to delivery trajectories are sufficient to raise doubt over the contribution of this source of supply. On that basis, for the purposes of this appeal, I shall similarly consider that the Council's supply stands at around 3.59 years, indicating a moderate shortfall of around 0.41 years.
40. The appellant suggests that a figure of 3.54 years could be used instead. This would however require a less consistent application of the Inspector's findings. The marginal 0.05-year difference would otherwise have little effect on my assessment. I shall therefore proceed on the basis outlined above.
41. The appeal scheme would conflict with the development plan taken as a whole. As the policies with which I have identified conflict are broadly consistent with those parts of the Framework which address the sustainable distribution of development, rural housing, design, the countryside and local character, these conflicts attract substantial weight. On the assumption that the development proved deliverable, provision of up to 33 dwellings, including affordable and self-build housing, would very modestly boost supply, generating very modest social and economic benefits. Though I attach significant weight to these benefits, they would be decisively outweighed by the environmental harms to which the development would also give rise, thus critically undermining its overall sustainability. This would be directly at odds with the headline objectives of the Framework. For this and the above reasons I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

**Conclusion**

42. For the reasons set out above I conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR