



Appeal Decision

Site visit made on 25 July 2016

by **D M Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 18 August 2016

Appeal Ref: APP/H2835/W/16/3146992

Land off The Sorrels, Isham, Northants.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by A P Lewis & Sons Ltd against the decision of the Borough Council of Wellingborough.
 - The application Ref WP/15/00769/FUL, dated 1 December 2015, was refused by notice dated 9 March 2016.
 - The development proposed is the erection of 16 dwellings (including 5 affordable dwellings) and creation of vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 16 dwellings (including 5 affordable dwellings) and creation of vehicular access at land off The Sorrels, Isham, Northants in accordance with the terms of the application, Ref WP/15/00769/FUL dated 1 December 2015, subject to the conditions set out in the schedule to this decision.

Application for costs

2. An application for costs was made by A P Lewis & Sons Ltd against the Borough Council of Wellingborough. This application is the subject of a separate decision.

Procedural Matters

3. Following determination of the application the Council adopted the "*North Northamptonshire Joint Core Strategy 2011-2031*" (the JCS) on the 14 July 2016. The Council has confirmed that Policies 1, 11, 13, 29 and 30 of the JCS are relevant to the appeal scheme. These replace the policies of the "*North Northamptonshire Core Spatial Strategy 2008*" and the "*Borough of Wellingborough Local Plan*" that are cited in the Council's refusal reasoning. I have considered the appeal on this basis and there is no prejudice to the interests of any party in doing so.
4. I have received a revised unilateral undertaking (UU) from the appellant dated 15 July 2016. I have taken this document into account along with the comments of the Council in relation to it.

Main Issues

5. I consider the main issues are, firstly, whether the development would be appropriate in such a location in light of local and national policy concerning

new housing in the countryside and sustainable development and, secondly, the effect of the proposed development on local infrastructure and whether contributions should be made to mitigate against any such effects.

Background

6. It is pertinent that a scheme for 9 dwellings was allowed on appeal in November 2015 (Ref: APP/H2835/W/15/3070004). Documents pertaining to that scheme have been submitted. Having considered these, it is apparent that there are a number of parallels between the current and previous schemes. Moreover, the Appellant has confirmed that in the event I were to dismiss the appeal, the scheme for 9 dwellings would in all likelihood be implemented. The Council do not dispute this and accordingly I am satisfied that the 2015 permission represents a viable fallback position. The additional 7 dwellings now sought would be accommodated within the site boundaries of 2015 permission. Based on the foregoing, whilst I have assessed the appeal before me on its own merits, the 2015 decision is a material consideration to which I attach considerable weight.

Reasons

7. Policy 1 of the JCS states that the Council will adopt a positive approach to development which reflects the presumption in favour of sustainable development set out in the "*National Planning Policy Framework*" (the Framework). Paragraph 7 of the Framework sets out the 3 dimensions to sustainable development: *economic, social and environmental*. Section 6 sets out policy in respect of housing in rural areas so that housing provision reflects local needs and is sustainable development.
8. Whilst the JCS continues the urban focus of its predecessor, Table 5 confirms that smaller villages within the Borough such as Isham will be expected to deliver some 540 dwellings over the plan period. In terms of this rural requirement, Policies 11 and 29 stipulate that development should, inter alia, support a prosperous rural economy, meet local needs, be accessible by a range of transport modes and be appropriate to its surroundings. There
9. Policy 11 states that '*small scale infill development will be permitted on suitable sites within villages where this would not materially harm the character of the settlement and residential amenity or exceed the capacity of local infrastructure and services*'. As the additional 7 dwellings would be located within the boundaries of the permitted scheme, they would, for all intents and purposes, be bounded by development on at least two sides. I also concur with the appellant that given its planning history, it is highly unlikely that the site would fall outside any future village boundary. Accordingly, I am satisfied that the scheme can be considered a 'small-scale infill development' for the purposes of Policy 11 of the JCS.
10. The site is located on the edge of Isham and is bounded by open countryside on two sides. The Framework and local policies collectively seek, amongst other things, to recognise the intrinsic character and beauty of the countryside and to prevent ad-hoc encroachment and the coalescence of settlements. Given that it would be contained within the footprint of the 2015 permission it follows that there would be no unacceptable impact on the character and appearance of the area or surrounding countryside. The Council do not argue otherwise. There is no evidence before me to suggest there would be any

adverse effects the on the residential amenity of neighbouring occupiers nor that the capacity of local infrastructure and services would be exceeded (provided the necessary planning obligations are secured).

11. The previous Inspector concluded that the site is well located in relation to local services and public transport. I saw at the time of my visit that the local school, church, shop and bus stops are all within easy walking distance of the site. Accordingly, whilst future occupants would still be reliant on a motor vehicle to access more distant destinations, neither the number of vehicle movements nor the level of car dependency would be at a level where there would be conflict with the aims of the Framework in terms of the need to minimise travel and maximise the use of sustainable forms of transport.
12. The development would support the *economic* role of sustainable development through the purchase of materials and services in connection with the construction of the dwellings. The occupants of the dwellings would provide some support for the local facilities which would contribute to maintaining or enhancing the vitality of the rural community. Notwithstanding the Council's HLS position, there would be benefits in terms of fulfilling the *social* dimensions of through the erection of 16 dwellings.
13. These benefits must be balanced against any harm. However, other than pointing to the proposal's conflict with various policies in the JCS, the Council have failed to substantiate what harm would be caused by the development. I therefore conclude that the development would accord with local and national policy concerning new housing in the countryside and sustainable development. Accordingly there would be no conflict with Policies 1, 11, 13, 29 and 30 of the JCS.
14. In coming to that view I have considered the Council's argument that the Appellant has not submitted a justification or viability assessment for the additional dwellings. However, the UU makes provision for affordable housing in line with the JCS and there is nothing in paragraph 54 of the Framework or the JCS which expressly requires a viability test for rural housing.

Planning Obligations

15. Regulation 122 of the Community Infrastructure Levy states that obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
16. The Council now takes the view that the scheme should provide 40% affordable housing. The requirement for such an obligation arises from Policy 30 of the JCS. The submitted UU makes provision for affordable housing in the form of whichever of the two alternatives (30% or 40%) is determined to meet the tests for planning obligations. Given that the JCS has been recently examined and found to be sound, I am satisfied that the 40% affordable housing obligation meets the requisite tests and that there is sufficient flexibility in the wording of the submitted UU to secure this.
17. The Council has also requested contributions towards primary education, fire and rescue, libraries and waste containers at the nearest civic amenity site. Whilst I understand the appellant's frustration that these contributions were not sought in relation the previous scheme nor at the time the application was

- under consideration by the Council, I am also required to assess the scheme before me in the light of current policies and guidance.
18. The education contribution is justified as the County Council has identified a potential deficit at the local primary school which would serve the development. This planning obligation is necessary to provide the additional school places that would be required by residents of the development proposed. The sum is fairly and reasonably related in scale and kind to the development, and directly related to it. Accordingly, it meets the test of a planning obligation.
19. I am however less satisfied with the justifications for the libraries, waste containers and fire and rescue contributions. In terms of the latter, the written justification from the County Council refers to a site at Chapman Road, Wellingborough. It is commonly accepted that the day to day running costs of a servicing a development would be covered by revenues to the service provider, such as Council Tax. I can appreciate that in some instances capital expenditure arising directly from the needs of a development might not be provided in time or at all within the priorities of a public service provider and therefore the development might well have an unacceptable impact. However, beyond pointing to a funding gap in future years and the need to '*contribute to the collective growth impact*' of new development across the County, there is little before me to explain how the failure to provide the contribution would lead to an unacceptable dilution in fire and rescue services either at a local level or more generally. Moreover, I do not know how the figure of £106 per dwelling has been calculated nor what exactly the contribution would be spent on. On this basis, I cannot be satisfied that it meets the three tests.
20. According to the County Council, the library contribution would go towards the expansion and improvements at Burton Latimer library approximately 5 miles away. However, I have been given no substantive evidence to indicate that there are deficiencies with the library or that the development would place unacceptable strain on these services. Beyond a fleeting reference to '*recommended*' tariff levels and BCIS building costs, there is again there is little before me to explain how the Council has calculated the contribution. As a consequence I cannot be sure the contribution is necessary to make the development acceptable in planning terms. I note the UU also provides a £1,200 contribution to the Council for waste containers. However, I can find no justification for such a contribution and consequently I cannot be sure it would meet the 3 tests.

Other Matters

21. Whilst the Council in particular has submitted a large volume of evidence relating to its housing land supply position, my decision does not turn on this matter as I have found the development would constitute sustainable development when assessed against Policy 1 of the JCS and the Framework as a whole.
22. Third parties have raised much more wide-ranging and fundamental objections to the development, including its use of land allocated as Local Open Space and its effects on highways infrastructure and road safety. However both applications have been comprehensively considered by the Council in relation to the current and previous appeals and whilst I understand the concerns of

local residents, there is no substantive evidence before me which would lead me to conclude differently on these matters.

Conditions

23. The Council has suggested 16 planning conditions which are almost identical to those imposed by my colleague in respect of the 2015 decision. Having reviewed these conditions and the reasons set out in paragraphs 23-26 of the 2015 decision, I am satisfied that they still meet the advice set out in the Planning Practice Guidance. Where appropriate I have made amendments to the conditions to ensure they reflect the current scheme.

Conclusion

24. In reaching my decision I appreciate the strength of opposition to the proposal from the local community and have taken account of the wide range of specific concerns that have been raised. However, I find that the proposed development would constitute sustainable development. There are no other factors which would justify withholding planning permission.

25. Based on the foregoing and having regard to all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector

Richborough Estates

SCHEDULE OF CONDITONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans: L-SI-14-022, L-SI-14-023, L-SI-14-024, L-SI-14-025 REV A, L-SI-14-026, L-SI-14-027 REV B, L-SI-14-031 REV A, L-SI-14-032, L-SI-14-033 REV A, L-SI-14-034, L-SI-14-035, L-SI-14-036, L-SI-14-037, LSI-14-038, 4808/SK02 A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Before development commences details of the existing and proposed site levels together with the finished floor levels of the dwellings shall be submitted to the local planning authority for approval in writing. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The hard landscaping shall be completed in accordance with a timetable agreed in writing with the local planning authority.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) Before development commences a landscape management plan, including long terms design objectives, management responsibilities and maintenance schedules of all landscaped areas, other than the residential curtilages, shall be submitted to the local planning authority for approval in writing. The management plan shall be carried out in accordance with the approved scheme, unless otherwise agreed in writing by the local planning authority.
- 9) Before development commences a tree protection plan, drafted in accordance with the recommendations and guidance set out in BS

5837:2012, shall be submitted to the local planning authority for approval in writing. The approved details shall be installed before any site works commence and shall be retained and maintained until the completion of all site operations.

- 10) Before development commences a scheme for the improvement of the section of Public Right of Way TM13 between the application site and Kettering Road and the section of Public Right of Way TM1 between the estate street and the eastern boundary of the appeal site and the stile at the field boundary of TM1 shall be submitted to the local planning authority for approval in writing. The approved scheme shall be implemented before the development is first occupied.
- 11) Before development commences full details of the intended method of surface water drainage, including measures to prevent surface water from draining onto the estate streets and ongoing maintenance, shall be submitted to the local planning authority for approval in writing. Development shall be carried out in accordance with the approved details before the development is first occupied.
- 12) No building works which comprise the erection of a building required to be served by water services shall be undertaken in connection with any phase of the development hereby permitted until full details of a scheme including phasing, for the provision of mains foul water drainage on and off the site has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details. No building shall be occupied until the works have been carried out in accordance with the approved scheme.
- 13) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 14) Before development commences an appropriate active season Bat Survey shall be carried out, during the May to August time period, and its findings submitted to the Local Planning Authority for approval. The survey should include full details of a scheme of enhancement and mitigation measures including details of the number and location of bat boxes to be installed and a timetable for their implementation. The development shall not be begun until the Local Planning Authority has approved the findings of the Survey and the development shall be carried out thereafter in accordance with the Survey's recommendations.
- 15) Construction and delivery vehicles shall not enter or leave the site between the hours of 08:15 hours to 09:00 hours and 14:45 hours to 15:45 hours Monday to Friday during school term time.
- 16) The first 5m of the private driveways measured from the highway boundary shall be hardsurfaced.