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## Appeal Decision

Hearing held on 22 March 2017

Site visit made on 22 March 2017

**by Amanda Blicq BSc (Hons) MA CMLI**

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

**Decision date: 31 May 2017**

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**Appeal Ref: APP/N2535/W/16/3160047**

**Land at Nettleham Road, Scothern, Lincoln, Lincolnshire LN2 2TY**

- 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 Allison Homes Ltd c/o Robert Doughty Consultancy Ltd against the decision of West Lindsey District Council.
  - The application Ref 134295, dated 8 April 2016, was refused by notice dated 22 June 2016.
  - The development proposed is planning application for residential development of 38 no. dwellings – resubmission of 133190.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity I have used the description of the development given on the appeal form.
3. I visited the village unaccompanied before the hearing, and made an accompanied site visit after the hearing.
4. The Council has advised that the Central Lincolnshire Local Plan was adopted on 24 April 2017. Consequently I give the policies within that plan and the Inspector's Report, full weight in my deliberations.
5. It was confirmed at the hearing that the Scothern Neighbourhood Plan (NP) was formally adopted on 23 January 2017. The appellant noted that the Written Ministerial Statement<sup>1</sup>, which outlines the weight to be given to NPs in situations where councils are unable to demonstrate sufficient five year housing land supply (HLS), is to be challenged later this year. However, I am obliged to determine this appeal in accordance with legislation and guidance relevant at the point of determination, and therefore I give this upcoming legal challenge little weight.
6. A letter forwarded from the appellant's solicitor which accompanied the Unilateral Undertaking submitted after the hearing<sup>2</sup>, states that a draft Section 106 agreement was shown to me at the hearing. This was not the case. I queried the status of the Section 106 agreement referred to in the evidence at

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<sup>1</sup> 12 December 2016

<sup>2</sup> Shakespeare Martineau, 30 March 2017

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the start of the hearing and was advised it had been signed by the Council but remained incomplete.

## **Main Issues**

7. The main issues are:

- whether the Council can demonstrate a five year housing land supply; and,
- whether, in the context of local and national policies, the proposals would represent sustainable development with particular regard to location.

## **Reasons**

### *Five year housing land supply*

8. The development plan policies relevant to this appeal comprise saved Policies STRAT3, 9 and 12 of the Local Plan<sup>3</sup> (LP), the NP, and Policies LP2, LP3 and LP4 of the emerging CLLP. These are policies which restrict housing supply.
9. The Inspector's Report states that the Inspectors are satisfied that there is a good prospect that there will be an up-to-date supply of specific deliverable sites sufficient enough to provide five years' worth of housing against the requirements of the plan upon adoption<sup>4</sup>. The appellant has provided further comment<sup>5</sup> suggesting that the Council's figures are flawed and it is argued that notwithstanding the adoption of the CLLP, the extant housing supply figure is less than that provided by the Council for the Local Plan. Nonetheless, the appellant concludes that even accounting for a diminished windfall supply, increased lapse rate and the application of the Liverpool method of adjustments to accommodate the shortfall, the existing housing supply as represented by the Local Plan falls to 5.3 years. As such, this supports my reasoning that the Council can demonstrate a five year housing land supply (HLS) and that the policies cited by the Council should be given full weight.
10. The appellant has also drawn my attention to previous appeals in the district where Inspectors have concluded that the Council does not have sufficient HLS. However, these decisions predate the Inspector's Report and as such I give their conclusions in respect of HLS no weight.
11. As I give full weight to the Inspector's Report in respect of HLS, I conclude that the policies restricting the supply of housing in the saved LP and NP should be considered up to date and afforded full weight as set out in Paragraph 49 of the National Planning Policy Framework (the Framework). I also give full weight to the restrictive policies in the CLLP.

### *Sustainable location*

12. The appeal site is a greenfield site, situated to the south-west of the small settlement of Scothern. Scothern is classified as a Medium Village<sup>6</sup> of 345 households in CLLP Policy LP2, which sets out the settlement strategy and hierarchy for the plan area. The village appears to have grown organically from its centre, and this is reflected in the diverse mix of housing styles and

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<sup>3</sup> West Lindsey Local Plan, June 2006

<sup>4</sup> Inspector's Report, Clause 251

<sup>5</sup> Robert Doughty Consultancy, 21 April 2017

<sup>6</sup> Figure given in Neighbourhood Plan

associated variations in density and plot size. The evidence before me indicates its facilities comprise a village hall, garden centre, public house and primary school.

13. Saved LP Policies STRAT3, STRAT9 and STRAT12 taken together impose restrictions on development in the open countryside, (that is, outside designated settlements) and seek to encourage development of previously developed land. These policies are consistent with the core planning principles of Paragraph 17 of the Framework.
14. The Council confirmed during the hearing that the categorisation of settlements in CLLP Policy LP2 was informed by their size and access to amenities. This policy states that Medium Villages will accommodate a limited amount of development in order to support their function and/or sustainability. There are to be no allocated housing sites except where they are already committed to development. Typically development proposals are expected to be on sites of up to 9 dwellings, or up to 25 dwellings in exceptional circumstances. The supporting text in the CLLP notes that this strategy will deliver growth to where it is most needed, and this approach is confirmed in the Inspector's Report. However, the scale of the development before me would considerably exceed that set out in the CLLP for a Medium Village, and represent an intensification of development well beyond that considered sustainable in relevant local policies.
15. Furthermore, given the scale of extant permissions approved since the base date of the CLLP, the appeal before me would increase dwellings in Scothern by some 30 per cent. This figure does not take account of another development at Weir Farm<sup>7</sup> which is still being determined, and which would add a further 30 dwellings.
16. The appellant argues that LP Policy STRAT3 identified Scothern as a primary rural settlement suitable for residential development. The supporting text to that policy states that in categorising settlements, their size, facilities, public transport provision and proximity to Lincoln were taken into account. However, it was confirmed during the hearing that CLLP Policy LP2 used similar criteria when determining the settlement hierarchy. I have no evidence before me to enable a direct comparison between the levels of public transport and facilities pertaining at the time of the respective LP and CLLP assessments, but the Council has now concluded that Scothern should have limited growth. Furthermore, the Inspector's Report recognises that services can vary over time, and that the number of dwellings in a settlement is a reasonable way to decide its position in the overall hierarchy<sup>8</sup>.
17. Moreover, a comparison of the primary rural settlements listed in LP Policy STRAT3 and the Large Villages<sup>9</sup> listed in CLLP LP2 indicates that less than half of the settlements listed in LP Policy STRAT3 are now considered suitable for a higher level of growth. As such, whilst I appreciate that Scothern was previously identified as a rural growth point in the past, I conclude that the former level of public transport provision and amenities has diminished to a level where further growth is considered inappropriate.

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<sup>7</sup> APP/N2535/W/16/3152022

<sup>8</sup> Inspector's Report, Clause 78

<sup>9</sup> Villages listed as being key service centres

18. I appreciate that a previous appeal decision for Weir Farm<sup>10</sup> indicated that Scothern would be a suitable location for housing, having regard to the availability of local services, and it was this decision that prompted resubmission of this application. However, this decision was issued in February 2016 when the CLLP was at an earlier stage. Whilst I can appreciate that the Inspector gave CLLP Policy LP4 limited weight, the CLLP has now been adopted. As such, I give this decision limited weight in my reasoning.
19. Furthermore, the evidence before me indicates that subsequent to that decision a development of 130 dwellings and 25 apartments has been permitted at Sudbrooke<sup>11</sup>, which is some 0.8 miles from Scothern. This is a settlement whose residents share many of Scothern's limited amenities. I concur with the parish council that the appeal before me would put additional pressure on Scothern to an extent not taken into account by the Inspector for that Weir Farm decision.
20. The appellant argues that the 10 per cent growth figure set out in CLLP Policy LP4 is a random and arbitrary figure<sup>12</sup>. However, it is entirely reasonable that a Council should direct growth to particular settlements commensurate with their size and amenities. As noted above, the principle of this approach has been supported by the CLLP Inspectors. Whilst I appreciate that growth ceilings should not be overly prescriptive, the scale of the appeal before me is considerable in the context of the original settlement size and extant permissions. As such, I give this argument little weight.
21. The appellant carried out a community consultation exercise in respect of the development<sup>13</sup> and feedback suggested a local need for smaller and single storey homes suitable for older people. The consultation's report accepts this general preference and states that the development's design was subsequently informed by this feedback. Nonetheless, I note that out of the 38 proposed dwellings, only seven are bungalows and 30 dwellings would have four or more bedrooms. This suggests that the provision for locally identified housing need would be rather limited.
22. With regard to the socio-economic report<sup>14</sup>, I am not satisfied that the report demonstrates that there would be positive social or cultural effects for the residents of Scothern. In particular, the report highlights that residents have to travel by car to do their shopping and although there is a local aspiration for a community shop, and references to other infrastructure requirements<sup>15</sup> there is nothing to suggest that developer contributions would benefit the village other than through a commensurate capacity increase at the local primary school. In any case, addressing the increased demand for local school places would have a neutral effect on Scothern.
23. Furthermore, apart from the provision of 4 off-site affordable homes within a 5 mile radius of Scothern, and the primary school contribution, the identified social benefits for Scothern appear to comprise tree planting and the drainage pond associated with the site's landscape works, as well as reference to the site's location within 20 minutes walking distance of the village centre. Given

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<sup>10</sup> APP/N2535/W/15/3138200

<sup>11</sup> Representation from parish council

<sup>12</sup> Increased to 15 per cent in the Main Modifications

<sup>13</sup> Statement of Community Involvement, Robert Doughty Consultancy, June 2015

<sup>14</sup> Zeta Economics, 2016

<sup>15</sup> Sewage, medical facilities

that the areas of tree planting and open space shown on the layout plan are largely limited to narrow peripheral buffers and associated with a need to provide swales and a pond for sustainable drainage, I give references to the site's proposed green infrastructure and opportunities for physical activity, little weight.

24. Moreover, a large proportion of the proposed tree planting is sited on garden boundaries and notwithstanding that they are species unlikely to reach a considerable size, it is also likely they will be subject to pruning to prevent overshadowing. Consequently, I conclude that there is limited supporting evidence to suggest the development would have a positive effect on social cohesion, environmental or community benefits. Whilst this would not be sufficient on its own to warrant dismissal of the appeal, it supports my reasoning in respect of the cumulative effect of this development.
25. The parish council drew my attention to the provision of play facilities within the village. Having reviewed the plans, as noted above, although there are open spaces indicated on the layout<sup>16</sup> these appear to be largely associated with the drainage strategy or filling in awkwardly shaped spaces on the boundary. I am unable to identify any designated formal or informal play area and although this is not determinative in my reasoning, it reinforces my concern that the scale of the development would be disproportionate to the local community infrastructure, particularly given the number of large family homes proposed.
26. Concerns were also raised at the hearing with regard to highway safety and capacity, and drainage. The evidence before me indicates that neither the highways authority nor the drainage officers raised concerns in respect of the development that could not be addressed by mitigation and I see no reason to disagree with those conclusions. However, I noted that the approach road from the A46 is insufficiently wide to take two running lanes of vehicles, and Nettleham Road did not appear wide enough to allow two wide vehicles to pass without mounting the soft highway verge. Again, whilst not determinative to my reasoning, these observations reinforce my concern that the growth of Scothern should be limited in accordance with the guidelines set out in the emerging CLLP and other relevant local policies.
27. The socio-economic report outlines the district-wide employment and economic benefits from the construction phase of the development, and notes that expenditure from future occupiers could provide some limited additional revenue for the pub and the community hall. However, I am not satisfied that significant economic benefits of the development would necessarily be felt in Scothern, which is already undergoing significant expansion in the context of what appears to be a gradual diminution of local amenities and connectivity to services, since the adoption of the LP.
28. Given the scale of the appeal before me, together with the cumulative effect of recent developments of similar size, I conclude that future occupiers would be largely dependent on amenities and services in other settlements. I appreciate the appellant's argument that Paragraph 55 of the Framework states that development in one rural village may support services in another nearby. However, having concluded above that Scothern has the potential to exceed the level of growth set out in the CLLP by a considerable margin, I am not

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<sup>16</sup> SK-02

satisfied that the provisions of Paragraph 55 should be used to justify levels of growth that significantly exceed local growth strategies, particularly where local facilities are as limited as in this case.

29. I appreciate that the Council's policies identify Scothern as a sustainable location for growth, but it remains that together with other permissions, the village would exceed its growth ceiling by some considerable margin if this appeal was allowed. The appellant argues that developer contributions could address the Council's concerns in respect of affordable housing and education, but I have outlined above why I consider such a contribution would have limited benefit if the appeal was allowed. In any case, interested parties have raised other concerns, as outlined above.
30. As such, I conclude that the proposals would result in the excessive growth of Scothern and that this would not represent sustainable development with regards to location. Therefore, the development would be contrary to emerging CLLP Policies LP2, LP3 and LP4, the NP and saved LP Policies STRAT3, 9 and 12, which taken together, seek to direct growth to sustainable locations.

#### *Other matters*

31. At the hearing the appellant stated that the Council had signed a planning agreement. In the event, a Unilateral Undertaking (UU) was submitted after the hearing and a subsequent communication from the Council advised that the Council considered it no longer met the necessary tests for planning obligations. However, as I have found harm in relation to the main issue it is not necessary for me to consider the UU further, except in relation to its contribution to affordable housing which I have addressed in the planning balance below.
32. The appellant also argues that the delegated report states that the development would not prejudice the wider setting of the settlement. I agree that it would be seen in the context of other housing, and would not significantly intrude into views of, or from, the surrounding countryside. However, there is little evidence before me to indicate there have been objections on the grounds of character and appearance, and although I acknowledge that the appeal site's location has a degree of suitability for housing, this is not a determinative factor in my reasoning.
33. It is noted by the appellant that the Inspector's Report was placed on the Council's website without public notification. Nonetheless, the appellant was invited to comment when the Council advised it had been issued. The appellant also argues in a recent communication that this appeal should have been considered long ago. However, I have to determine the appeal before me in the context of legislation pertaining at the date of the decision.
34. The appellant argues that although there is an extant permission for Dunholme Road, the site is currently being marketed. Whilst I appreciate the appellant's point that there may be a delay in the implementation of building works on this site, there is nothing before me to indicate that the site will not be developed in accordance with that permission.

#### *Planning Balance*

35. Balanced against the harm I have identified above, the development would make a moderate contribution to the supply of housing as well as providing

four affordable homes in the wider area. However, the NP indicates that the immediate local need for affordable housing has been addressed. Consequently, I am not satisfied that the benefits accrued from a limited number of affordable homes elsewhere, would outweigh the harm identified above with regard to the overall scale of residential development proposed in the context of this village.

36. In the light of the above, although I recognise that there would be benefit from the supply of housing, I am not satisfied that the three strands of sustainable development, as outlined in Paragraph 7 of the Framework, would be met if the appeal was allowed.

### **Conclusion**

37. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and there are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Local Plan. Consequently, the appeal should be dismissed.

*Amanda Blacq*

INSPECTOR

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT**

Michael Braithwaite

Robert Doughty Consultancy Ltd

### **FOR THE LOCAL PLANNING AUTHORITY**

Rachel Woollass

West Lindsey District Council

Richard Green

West Lindsey District Council

### **INTERESTED PARTIES**

John Fotheringham

Catherine Nicoll

Scothern Parish Council

John Nicoll

Melanie Tointon

Scothern Parish Council

## **ANNEX 1**

### **Documents submitted at the Hearing (by agreement)**

1. Appeal decisions APP/N2535/W/16/3156035; APP/N2535/W/16/3142445; APP/N2535/W/16/3154773
2. Five Year Land Supply Local Plan Examination Note, 15 December 2016

### **Documents submitted after the Hearing**

1. Unilateral Undertaking