



Appeal Decisions

Hearing held on 25 July 2017

Site visit made on 25 July 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 18th August 2017

Appeal A Ref: APP/E2530/W/16/3165121

Land off Sparrow Lane, Long Bennington NG23 5DL

- 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 GraceMachin Planning & Property against the decision of South Kesteven District Council.
 - The application Ref S16/2231, dated 26 September 2016, was refused by notice dated 24 November 2016.
 - The development proposed is 3 no. starter homes.
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Appeal B Ref: APP/E2530/W/17/3167830

Land off Sparrow Lane, Long Bennington NG23 5DL

- 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 GraceMachin Planning & Property against the decision of South Kesteven District Council.
 - The application Ref S16/2468, dated 19 October 2016, was refused by notice dated 21 December 2016.
 - The development originally proposed on the application form was for 14 no. dwellings.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matters

2. The planning applications for both appeal schemes were in outline with all matters reserved apart from access. I have had regard to the plans submitted with each scheme, but have regarded all elements as indicative apart from the access details shown on drawing no. 1445L/002 for the Appeal A scheme and the access details shown on drawing no. 1445L/104 for the Appeal B scheme.
3. The Appeal B scheme was reduced from 14 to 10 dwellings following the Council's decision. For the avoidance of doubt, I have taken the reduced number of dwellings into account when assessing this appeal scheme.
4. It was confirmed at the hearing that the Long Bennington Neighbourhood Plan was made on 19 July 2017. It now forms part of the development plan for South Kesteven and so I have taken relevant policies into account.

Main Issues

5. The main issue for both appeals is whether the proposed development would provide a suitable location for housing, having regard to the character and appearance of the area.
6. For Appeal B, there is also the separate main issue of whether the proposal makes adequate provision for infrastructure needs arising from the development.

Reasons

Character and appearance

7. Long Bennington is identified as a Local Service Centre (LSC) in Policy SP2 of the South Kesteven Core Strategy 2010 ('the Core Strategy'). Such settlements are considered to offer a range of local services and facilities where a degree of development is accepted. Policies SP1 and H1 of the Core Strategy direct development towards brownfield sites within the built-up parts of LSCs and allocated sites. Policy SAP H1 of the South Kesteven Site Allocation and Policies Plan 2014 (SAPP) states that, other than site allocations, new greenfield sites on the edges of towns and villages will not be considered acceptable for housing. The policy also sets out criteria for small infill development.
8. The Council confirmed at the hearing that it does not define the built-up area of settlements in the development plan, nor does it have a definition for built-up areas or infill development. As such, it is a matter of planning judgement for any given case.
9. Properties along Sparrow Lane vary in age and design, but are predominantly detached. They either front onto the lane or in small cul-de-sacs to the rear at Carriage Close and Nos 11 and 15 Sparrow Lane. To the east of Nos 6, 9 and 15 Sparrow Lane is rough grassland extending eastwards to the River Witham and the wider countryside beyond on the other side of the river. At these properties, Sparrow Lane becomes a green track that connects with a public footpath running north-south parallel to the river across the grassland. The footpath provides views back across the grassland towards Sparrow Lane as well as views across the river.
10. It is evident that Long Bennington has grown considerably in recent decades, with housing development stretching eastwards from the main road as far as the river. However, there is a considerable section of undeveloped land between the river and the built edge of the village to the north and south of Sparrow Lane. This section of land forms an attractive green and countryside setting to this part of the village and contributes positively to the character and appearance of the area.
11. The Appeal A site is a small area of undeveloped grassland enclosed by post and rail fencing. The site overlaps with the built form and domestic gardens of Nos 6 and 15 Sparrow Lane to the north-west and south respectively and is bounded to the west and north-west by the private access drive to Nos 11 and 15. Nevertheless, to the east, north-east and south-east is further undeveloped land, with views across the site to the wider countryside. Therefore, I consider that the Appeal A site forms part of the village's

- countryside setting and comprises a greenfield site on the edge of the settlement.
12. The Appeal B site is much larger and incorporates the Appeal A site along with the remaining grassland as far as the river. Mature boundary vegetation encloses the site to the north and south. Large-scale housing development to the north and south is a reasonable distance away and screened by the boundary vegetation. Therefore, the Appeal B site also forms part of the village's countryside setting as a greenfield site on the edge of the settlement.
 13. As an outline application with all matters reserved apart from access, it is not possible to be certain of the precise details of the Appeal A scheme including layout. However, any built development, even if it were to be immediately adjacent to the private access drive, would be beyond the built form of Nos 6 and 15. Moreover, any housing would erode the undeveloped nature of the site and result in an encroachment of development into the countryside setting of the village. As a consequence, it would not represent infill development.
 14. Permitted development rights have been removed for No 15 in terms of extensions and outbuildings, but they apparently still exist for No 6. While theoretically this could extend the built form of No 6 eastwards to a similar extent as the Appeal A scheme, this would be contained within the grounds of the existing property and would not encroach into the countryside. Thus, I give little weight to the apparent existence of permitted development rights for No 6.
 15. Although the floor plans and elevations for Appeal A are indicative, it seems likely that terraced housing would be necessary to accommodate three houses within the site given its size. This would not be in keeping with the detached form and layout of dwellings along Sparrow Lane. Housing development in any form on this site would also reduce the views across to the wider countryside.
 16. For the Appeal B scheme, it is also not possible to be certain of the precise details other than access. The appellant seeks to restrict housing to the west of the public footpath on flatter ground and has reduced the number of proposed houses from 14 to 10. However, there would still be a considerable encroachment of development into the countryside setting of the village. Even with landscaping along the western edge of the public footpath, the experience of walking along this footpath would alter greatly through the close proximity of housing.
 17. A cul-de-sac development of mostly detached properties as shown on the indicative site layout plan for 10 houses would reflect the form of existing properties along Sparrow Lane and the layout of the properties at Nos 11 and 15 and on Carriage Close. However, this would not overcome the harm to character and appearance that would result from the location of the development and its encroachment into the countryside.
 18. The building line along the east side of Long Bennington does vary, including immediately to the north of the two appeal sites where there has been a proposal for 8 houses to the rear of the Royal Oak, now withdrawn. However, both appeal schemes would result in the breaching of the built edge of Long Bennington in respect of Sparrow Lane and the encroachment of housing into the countryside setting of the village.

19. Concluding on this main issue, the proposed development in both appeal schemes would not provide a suitable location for housing having regard to the character and appearance of the area. Therefore, the schemes would not accord with Policies SP1 and H1 of the Core Strategy and SAP Policy H1 of the SAPP which seek to avoid greenfield sites on the edge of settlements unless allocated. The schemes would also not accord with Policy EN1 of the Core Strategy, which seeks to protect the character of the district. The policy takes into account matters such as local distinctiveness and sense of place, as well as open spaces important to the character, setting and separation of built-up areas.
20. The appeal schemes would also conflict with Policies LB1 and LB2 of the Long Bennington Neighbourhood Development Plan (LBNDP). Amongst other things, these policies require development to take account of the form, character and setting of the settlement and the relationship between buildings, landscape and open spaces. The schemes would also not respond to local character as required by the National Planning Policy Framework (NPPF).

Infrastructure requirements

21. The Council states that the reduction in the number of houses from 14 to 10 in the Appeal B scheme means that the written ministerial statement (WMS) of 28 November 2014 and the relevant sections of the Planning Practice Guidance (PPG) become a material planning consideration. The WMS and PPG state that contributions for affordable housing and tariff style planning obligations should not be sought for developments of 10 units or less and which have maximum combined gross floorspace of no more than 1,000 square metres. As such, the Council indicates that contributions towards education and affordable housing sought by Policies SP4 and H3 of the Core Strategy are outweighed by the WMS and PPG.
22. As an outline scheme with scale and layout yet to be fixed, there is a possibility that the development could exceed 1,000 square metres and therefore trigger affordable housing contributions as required by local policies. However, it has been suggested by the Council that this could be addressed either through the provision of a planning obligation where contributions are triggered in the event of the 1,000 square metres being exceeded or a planning condition restricting the size of the development. The appellant indicates that the latter would be preferable and confirmed their intention not to exceed the thresholds. The use of a condition over an obligation is a rather negative approach and prevents the provision of affordable housing altogether rather than leaving the possibility open through a planning obligation. However, given my overall decision on Appeal B, it is not necessary for this matter to be considered any further.
23. A completed planning obligation in the form of a unilateral undertaking has been provided by the appellant that would make a financial contribution of £30,000 towards the provision of highway improvements on Sparrow Lane. At the hearing, the Council confirmed that it had no concerns with the wording of the unilateral undertaking. I see no reason to disagree. Interested parties at the hearing argued that the contribution was insufficient to address highway issues with Sparrow Lane, citing matters such as subsidence and drainage. At my site visit, I observed that Sparrow Lane suffers from poor surfacing that

could be exacerbated by further development envisaged by the Appeal B scheme.

24. From the evidence before me, it is not possible to know how the £30,000 figure was derived by the local highway authority and what it would be spent on. However, it is clear the local highway authority requested this amount for improvement works and do not object to the development provided the amount is provided. As a contribution towards improvement works, the completed unilateral undertaking would be necessary to make the development acceptable and would be directly related to the development and fair and reasonable in scale and kind. I can therefore reasonably take it into account.
25. Concluding on this main issue, the Appeal B scheme would make adequate provision for infrastructure needs. Thus, there would be no conflict with Core Strategy Policies SP3, SP4 and H3 or the South Kesteven Planning Obligations Supplementary Planning Document, which seek developer contributions where appropriate. It would also meet the tests set out in paragraphs 203-206 of the NPPF.

Planning balance

26. At the hearing, the Council confirmed that it has a 5.24 years of housing supply based on the Liverpool methodology for dealing with any shortfall, which it considers to be the most appropriate method, and applying a 5% buffer to its housing requirement.
27. The appellant queries whether the Council can demonstrate a five year supply of housing land supply in terms of the delivery of windfall sites and large sites without planning permission. These two categories amount to 620 houses of the total supply of 3,750 houses that the Council says it has against a requirement to deliver 3,578 houses for the next five years. However, the site specific evidence to support the appellant's claims is lacking. The appellant points towards an allocated site in Long Bennington where planning permission has been granted for 21 houses rather than the allocated 35 units. Although this is a shortfall for this specific allocation, I have little evidence that this is a trend repeated at other sites to the extent that there is an overall shortfall. Thus, I have no compelling reason to conclude against the Council's position that it can demonstrate a five year housing land supply. Even though 5.24 years is only just above the required amount, it still amounts to a five year supply.
28. Considering the benefits of the appeal schemes, the appellant asserts that there is a lack of smaller dwellings in Long Bennington as indicated by the LBNDP and a limited number of houses available for sale or rent based on current estate agent evidence. The provision of a number of dwellings, including smaller units and Starter Homes as envisaged by both appeal schemes, would provide a social benefit. The construction of the dwellings, the support for local services and facilities and additional council tax revenue would also provide economic benefits. The highways improvements to Sparrow Lane as part of the Appeal B scheme would benefit existing users as well as future occupants, including the provision of turning space for refuse lorries. However, given the scale of development in either appeal scheme, the above benefits only carry moderate weight. The delivery of high quality design and enhanced landscaping and biodiversity would mitigate the effect of development rather than provide benefits and so carry neutral weight in the planning balance.

29. Turning to the adverse impacts, the proposed development in both appeal schemes would result in the encroachment of development into the countryside setting of Long Bennington. The extent of development in Appeal B would result in a considerable loss of land that would not be overcome by the potential form and layout of development. The Appeal A scheme would result in a smaller loss of land, but still significant given its location on the edge of the settlement, where the likely form and layout of development is unlikely to be in keeping with existing properties on Sparrow Lane. In both appeal schemes, there would be harm to the character and appearance of the area and conflict with development plan policies which seek to protect the setting of settlements. Thus, the adverse impacts carry significant weight in both appeal schemes.
30. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Paragraph 14 of the NPPF states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as whole or specific policies in the NPPF indicate development should be restricted.
31. Therefore, even if I were to conclude that there is a shortfall in 5 year supply of the scale suggested by the appellant and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission for either appeal scheme would significantly and demonstrably outweigh the benefits. Thus, both appeal schemes would not represent sustainable development.

Other Matters

32. Interested parties have raised concerns with a number of other matters. While I have had regard to these matters, they have not led me to any different overall conclusion.

Conclusion

33. The appeal schemes would provide moderate benefits and the Appeal B scheme would make adequate provision for infrastructure needs. However, the proposed development in each appeal scheme would not provide a suitable location for development having regard to the character and appearance of the area and they would not represent sustainable development. For these reasons, I conclude that both appeals should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

George Machin GraceMachin Planning & Property

Brian Little Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Justin Johnson South Kesteven District Council

Samantha Brooman South Kesteven District Council

INTERESTED PARTIES WHO SPOKE AT HEARING:

Councillor Paul Wood South Kesteven District Council

Peter Jesson Local resident

Edwin Brackenbury Local resident

Don Craigen Local resident

Jill Craigen Local resident

Samantha Cowell Local resident

Anthony Heaton Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Email correspondence from Peter Jesson dated 24 July 2017, submitted by the local planning authority.
2. Amended statement and Appendix B from Samatha Brooman, submitted by the local planning authority.
3. Estate agent information for Long Bennington, submitted by the appellant.
4. Committee report and minutes for planning application at Land off Main Road, Long Bennington, submitted by the appellant.

DOCUMENTS SUBMITTED AFTER THE HEARING WITH THE INSPECTOR'S AGREEMENT

- (a) Statement of Common Ground for Appeal A, submitted by the appellant and the local planning authority.
- (b) Statement of Common Ground for Appeal B, submitted by the appellant and the local planning authority.