



Appeal Decision

Inquiry held on 25 - 27 February 2014

Site visit made on 26 February 2014

by Anthony Lyman BSc(Hons) DipTP MRTPI

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

Decision date: 10 April 2014

Appeal Ref: APP/L2820/A/13/2204628

Land to the rear of 18 & 20 Glebe Avenue, Broughton, Kettering, NN14 1NE

- 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 Glanmoor Investments Limited against the decision of Kettering Borough Council.
 - The application Ref KET/2013/0284, dated 24 April 2013, was refused by notice dated 1 August 2013.
 - The development proposed is residential development for 67 dwellings (gross) together with the demolition of nos. 18 and 20 Glebe Avenue to provide access, with provision of associated car parking, children's play space, informal open spaces and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The second reason for refusal related to concerns about the proposed layout, street design and the open spaces to be provided as part of the development. Prior to the Inquiry, discussions were held between the appellant and the local planning authority and an amended plan of the proposed site layout was prepared to address the reason for refusal. The Council consulted widely on the amended plan before the Inquiry and confirmed that they had no objection to the appeal proceeding on the basis of the new plan.
3. Given the relatively minor scale of the amendments, the level of consultation undertaken, and having regard to the submissions on the matter from both main parties at the Inquiry, I considered that the determination of the appeal on the basis of the amended plan would not prejudice the interests of any party. The Inquiry proceeded therefore, on the basis of the amended plan No. 7827/004Q. Consequently, the Council withdrew the second reason for refusal and the appellant did not call two witnesses, Ian Brazier and Robert Woolston, who had submitted proofs of evidence to address that issue.
4. The Council's own proof of evidence was submitted by Christina Riley, a Senior Development Officer with Kettering Borough Council. That officer was unable to attend the Inquiry and the Council's evidence was given by the Development Manager, Peter Chaplin who confirmed in his 'Supplemental Statement' that he endorsed Christina Riley's proof of evidence.

5. A planning obligation under Section 106 of the Town and Country Planning Act 1990 was submitted at the Inquiry. I will consider this later in my Decision.
6. The Planning Practice Guidance (PPG) was published by the Government after the close of the Inquiry. Reference had been made at the Inquiry to the draft version of the document in so far as it related to the assessment of housing need. Both parties subsequently submitted further comments on the published document, to which I have had regard in determining the appeal.

Main Issues

7. The main issues are, i) whether the site is appropriate for residential development having regard to national and local planning policies which seek to protect the open countryside, ii) the effect of other considerations including housing land supply and sustainability, on the overall planning balance.

Reasons

Development in the open countryside

8. The appeal site is a field of approximately 4 hectares in the open countryside immediately outside the settlement boundary of the village of Broughton as designated in the Local Plan for Kettering Borough (the Local Plan). The south-western boundary of the field abuts the rear gardens of mostly semi-detached houses on Glebe Avenue, two of which would be demolished to create the vehicular access to the development.
9. To the north-west the site adjoins a paddock and lower density residential development beyond which is the historic core of the village. This boundary is contiguous with the proposed Broughton Conservation Area which, following several rounds of consultation, the Council anticipate being confirmed in the near future. The two remaining boundaries of the field largely abut undeveloped open countryside and a small wooded pocket park to the north-east, giving the site a very rural character. The proposal is to erect 67 dwellings of which 21 would be affordable homes. The layout incorporates areas of public open space and pedestrian through routes to surrounding public rights of way.
10. Policy 1 of the North Northamptonshire Core Spatial Strategy (CSS) adopted in 2008, directs development principally towards urban growth towns including Kettering, with secondary focal points for development in the smaller towns. In rural areas, the Policy states that development will take place on sites within village boundaries and that, outside village boundaries, development will only be justified where it involves the re-use of buildings or, in exceptional circumstances, it can be clearly demonstrated that the development is required to meet local needs for employment, housing or services.
11. Broughton is a rural village, the proposed development would be outside of its boundary, and the appellant conceded at the Inquiry that the proposal is not intended to meet only local need. The proposal would, therefore, be contrary to Policy 1 of the CSS. For similar reasons the development would fail to satisfy the objectives of Policies 9 and 10 of the CSS which, amongst other things, restrict development in the open countryside, direct development to support the network of settlements set out in Policy 1 and promote the use of previously used land.

12. Local Plan Saved Policy 7 - *Environment: Protection of the Open Countryside*, seeks to protect the natural environment from unjustified development. *Rural Areas Policies* RA3 and RA5, amongst other things, similarly restrict development in the countryside other than exceptionally, housing relating to agriculture or forestry or the conversion/reinstatement of rural buildings. Although these saved Policies were adopted in 1995, their objectives are broadly consistent with the National Planning Policy Framework (the Framework) which advocates as one of the core planning principles the need to recognise the intrinsic character and beauty of the countryside.

Other considerations – Housing need/Five year supply of housing land

13. The proposal's conflict with the above development plan policies was not contested by the appellant. However, with reference to a High Court Judgement by Mr Justice Lewis¹ the appellant argued that the development plan policies set out above were relevant for the supply of housing and that, in accordance with paragraph 49 of the Framework, were out-of-date because the Council could not demonstrate a five year supply of deliverable housing sites. According to the appellant, paragraph 14 of the Framework is engaged and planning permission should be granted, as there would be no harm or adverse impacts arising from the development.
14. In order to boost significantly the supply of housing the Framework requires local planning authorities to use their evidence base to ensure that local plans meet the full, objectively assessed needs for market and affordable housing in their housing market area, and to maintain a five year supply of deliverable housing sites with an additional buffer to accommodate choice and competition. The appellant contended that the adopted CSS, which requires 13,100 homes to be built in the area over the plan period 2001 to 2021, includes the only objective assessment of housing need in Kettering Borough.
15. The housing figures in the CSS were taken from the Milton Keynes and South Midlands Sub-Regional Strategy as embedded in the 2005 East Midlands Regional Plan which was revoked in April last year. According to the Council, North Northamptonshire had been identified at that time as part of a national Growth Area agenda to help accommodate development pressures in the south-east of England and the resultant housing figures were part of a top down, national agenda rather than an objective assessment of need in the housing market area. In these circumstances, the Council maintained that the housing figures set out in tables 3 and 5 of the CSS were inconsistent with the provisions of the Framework and were out-of-date.
16. The appellant argued it was a fundamental legal requirement for the development plan to be looked at and applied as a whole², and that the Council's contention that parts of the development plan were out-of-date but that the policies were up-to-date, was axiomatically wrong. However, paragraph 215 of the Framework invites just such an approach by confirming that policies within existing plans should be given due weight according to their degree of consistency with the Framework.

¹ Cotswold District Council v Secretary of State [2013] EWHC 3719 (admin)

² Rochdale v Tew [1994] 57L 235

17. The Council now relies on an Interim Housing Statement (IHS) recently adopted by the North Northamptonshire Joint Planning Committee. In accordance with advice in the Framework and in the then draft PPG, the starting point for the IHS was the household projections published by the Department of Communities and Local Government (DCLG). This approach is confirmed in the published PPG which advises that the household projection-based estimates of housing need may require adjustment to reflect factors including those affecting local demography and household formation rates.
18. Accordingly, the IHS assesses housing requirements based on local demographic, economic and affordability evidence supported by research commissioned from the Cambridge Centre for Housing and Planning Research (CCHPR) which undertook demographic modelling to test how the 2011 based DCLG interim household projections should be adjusted to provide an appropriate base for planning for housing in the area.
19. The draft IHS was the subject of an eight week consultation exercise which resulted in numerous responses from organisations and individuals. In evidence, the Planning Manager of the North Northamptonshire Joint Planning Unit (JPU) confirmed that further detailed work, including by the CCHPR, had been undertaken to address the issues raised in consultation.
20. The appellant argued that not all of the objections to the IHS had been addressed before its adoption, and that little weight should be attached to the document as it had not been subject to independent public examination. To support this view the appellant referred me to a number of Appeal Decisions including one for 124 dwellings in Irchester³ in the neighbouring Borough of Wellingborough, also within the JPU. That Inspector concluded that full weight should be given to the housing figures in the adopted CCS and that the draft Core Strategy Review (CSR) figures could not carry significant weight.
21. However, in that case, the figures had not been the subject of consultation and the emerging CSR was at an early stage of development. Significantly that Decision pre-dated the case of *Hunston Properties Ltd v SoS for CLG and St Albans City DC* to which I have had regard. The same is true of the appeal for 220 dwellings at Silverstone⁴ to which the appellant also referred. However, in that case the Secretary of State agreed with the Inspector who was also sceptical that the approach adopted by that Council complied with the Framework's requirement for a full, objective needs assessment for the area.
22. I consider that the adopted figures in the CSS, which date from around 2005 and emerged from the now revoked Regional Strategy to meet the now abandoned national Growth Area strategy, cannot be construed as meeting the Framework's requirement for evidence to be based on the full, objectively assessed needs for market and affordable housing in the area. By comparison, the IHS has been based on more up to date information following the guidance in the Framework and the PPG, has been open to public consultation, and has been subject to analysis, further research and input from the CCHPR, which I consider to be an independent and well respected organisation.
23. The IHS is an evidence base and is not a new plan or policy, and could be subject to alteration following an independent public examination of the

³ APP/H2835/A/12/2182431

⁴ APP/Z2830/A/12/2183859

emerging CSR. Nevertheless, irrespective of the progress with the CSR, the IHS appears to me to be a cogent, robust and up-to-date evidence base which represents an objective assessment of the housing needs of the area. It provides a prudent basis for planning for housing provision in the area and, therefore, carries substantial weight in my Decision as a significant material consideration which outweighs the out-of-date CSS housing figures.

24. The appellant's argument that the Council cannot demonstrate a five year supply of deliverable housing land is based on the housing requirements set out in the CSS. Using these figures the appellant submitted a number of tables addressing different scenarios to demonstrate the claimed shortfall in supply. The variables in the tables related to whether a 5% or 20% buffer should be applied to the housing figures, whether the shortfall in housing completions should be dealt with using the Liverpool or Sedgefield approach, and the deliverability of some of the identified sites in the supply of housing land.
25. I agree with the appellant that the Sedgefield method to accommodate under-delivery in previous years over a five year period, rather than the lifetime of the plan, more closely accords with the Framework's requirement to boost significantly the supply of housing. However, I am not convinced that the under-supply of housing in previous years has been so persistent as to warrant a 20% buffer being applied. The appellant stated that housing completions have fallen below annual CSS targets in 8 of the last 9 years. The Council, however, demonstrated that since 2001 cumulative completions have exceeded cumulative requirement in all but the last few years since 2010/2011, and argued that this shortfall was a result of the downturn in the housing market during the economic recession rather than a failing by the Council.
26. In the absence of a definition as to what constitutes 'persistent under delivery of housing' I consider that a 5% buffer is appropriate, particularly as the Office for National Statistics - Population and Household Estimates for England and Wales, March 2011⁵ confirm that Kettering Borough Council have consistently been one of the highest performing authorities in the country in a league table of household growth.
27. Taking into account the figures in the CSS, applying the Sedgefield method to accommodate past under-provision, and applying a 20% buffer, the appellant calculated that there is a total housing requirement for 6191 dwellings in the five year period 2014 to 2019, against the Council's identified housing land supply of 5581. According to the appellant this represented a deliverable housing land supply of 4.51 years.
28. However, the appellant also argued that the Council's identified deliverable housing land supply is over exaggerated and that 300 dwellings at Kettering East, 618 dwellings described in the Council's supply tables as 'pre-application sites' and three sites allocated for 171 dwellings and described as 'Category 1 sites without planning permission' in the Strategic Housing Land Availability Assessment, should be discounted. According to the appellant this would reduce the identified housing land 2014 -2019, to 4492 dwellings, giving a supply of only 3.51 years. I have little evidence before me to test whether these three elements of the Council's identified supply of housing land, particularly the 618 dwellings which the Council's witness stated were the

⁵ Table 7: Local and Unitary Authorities with the highest growth in households, 2001 and 2011

subject of confidential pre-application discussions, can be robustly considered as 'deliverable' in accordance with footnote 11 of the Framework.

29. Nevertheless, based on the objectively assessed housing need in the IHS, and applying the Sedgefield approach to accommodate the shortfall in previous provision, the five year housing requirement for Kettering Borough is identified as 2612 dwellings. Therefore, based on the appellant's own discounted assessment of deliverable housing land of 4492 dwellings, and irrespective of whether a 5% or 20% buffer is applied, the Council have demonstrated that a five year supply of deliverable housing land is available.
30. Given that I have found that the IHS demonstrates that there is a five year supply of housing land, paragraph 49 of the Framework is not engaged. Therefore, the development plan policies referred to above, and with which the proposal is in conflict, irrespective of whether they are relevant to the supply of housing or not, are up-to-date and continue to attract due weight.

Other considerations – Sustainability

31. Broughton has a reasonable range of facilities to meet local needs, including convenience stores, takeaways, a public house and primary school, although the latter is said to be at capacity. The village also currently benefits from a regular bus service to the wider facilities in the larger nearby towns. However, the village provides few employment opportunities, with most working residents commuting to the larger centres. Nevertheless, Broughton is a relatively sustainable location for new development.
32. A sustainable location does not necessarily mean, however, that a proposal can be considered as sustainable development for which the Framework emphasises a presumption in favour. The Framework advocates that there are three dimensions to sustainable development, economic, social and environmental. The proposal would generate investment and jobs in the area during construction, and future residents would be likely to support village services and businesses. By providing a mix of homes to meet the needs of present and future generations, including affordable homes, the social dimension would be satisfied.
33. However, I have seen little evidence that the proposal would contribute to protecting and enhancing the natural, built and historic environment and to improving biodiversity to satisfy the environmental dimension. The development would involve the loss of nearly 4ha of attractive open countryside, detracting from the character and appearance of the area, and contrary to the protection afforded by the development plan policies set out above. I am not persuaded by the appellant's claim that no harm would arise from the development at Broughton.
34. The Framework confirms that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. I am not convinced that the proposal could be considered as sustainable development.
35. The appellant argued that the application had not been refused on the grounds of sustainability and invited me to reject the Council's subsequent argument that Broughton is an unsustainable location. However, it appears to me that sustainability is at the heart of the spatial strategy set out in Policy 1 of the

CSS specified in the reasons for refusal, which seeks to direct the majority of development to urban areas. The reason for refusal also states that '*the proposal is therefore considered contrary to policy 6 of the NPPF*', which specifically relates to the achievement of sustainable development.

36. A similar residential development at Cransley Hill on the outskirts of Broughton was granted permission last year and the appellant argued that little of significance in terms of sustainability had changed since. However, the Council confirmed that, at the time of that decision, a five year supply of housing land could not be demonstrated and that, therefore, paragraph 14 of the Framework applied. It was also stated at the Inquiry that the Cransley Hill development would be sufficient to meet local housing needs, particularly with regard to affordable housing, as identified in a recent housing needs survey of the village⁶. That would not be the case with the appeal proposal which is not intended or needed to meet only local need. The circumstances now, compared to those pertaining at the time of the Cransley Hill decision, are sufficiently different to justify a different conclusion.

Other matters

37. Broughton Parish Council confirmed that work is underway on a new Neighbourhood Plan for the village, to follow on from the Parish Plan completed in 2009. The Parish Council stated that they are not opposed to further development and that they have identified several sites within the village where housing would be appropriate, in accordance with development plan policies. However, they argued that an overarching approach to new development in the future was necessary because the village's infrastructure was 'creaking' as previous developments have just been absorbed. I have sympathy with the Parish Council's concerns and applaud their commitment to prepare a Neighbourhood Plan to provide a framework to cover all aspects of the village, not just housing development. However, that plan is at such an early stage of development that I can afford it little weight in my Decision.
38. The signed Section 106 Obligation submitted at the Inquiry relates to the provision of the affordable housing and commits the appellant to make financial contributions towards a range of services including primary and secondary educational provision. The Council subsequently submitted a compliance statement relating to the contributions, which need to be assessed against the statutory tests of Regulation 122 of Community Infrastructure Levy Regulations. However, the Obligation submitted to me is not dated, and furthermore, given my conclusion on the main issues, it is not necessary to apply these tests as the Regulation only applies where planning permission is to be granted.

Conclusion

39. On the evidence before me, I conclude that the Council have satisfactorily demonstrated a five year supply of deliverable housing land based on the full, objectively assessed needs for market and affordable housing in the area in accordance with paragraph 47 of the Framework. Although that paragraph seeks to boost the supply of housing, that requirement is outweighed by the proposal's substantial conflict with the objectives of CSS Policies 1 and 9,

⁶ Broughton Housing Needs Survey – September 2013

Policies 7, RA3 and RA5 of the Local Plan and the Framework's provisions regarding sustainable development.

40. Therefore, for the reasons given and having had regard to all other matters raised, including several other appeal decisions and Inspector's letters referred to me, the appeal is dismissed.

Anthony Lyman

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Richard Wald of Counsel

He called

Andrew Longley
BSc(Hons) MA MRTPI

Planning Manager – North Northamptonshire
Joint Planning Unit

Neil McDonald

Visiting Fellow at Cambridge Centre for Housing
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Peter Chaplin BA(Hons)
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Development Manager – Kettering Borough
Council

FOR THE APPELLANT:

Anthony Crean QC

He called

Nigel Ozier
BA(Hons) MRTPI

Brian Barber Associates

INTERESTED PERSONS:

Councillor Jim Hakewill

Kettering Borough Council

Mary Rust

Broughton Parish Council

Hilary Bull

Broughton Parish Council

Philip McCourt

Broughton resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Opening submissions on behalf of the appellant
- 2 Submission by Councillor Jim Hakewill
- 3 Submissions by Broughton Parish Council
- 4 Agreed list of plans
- 5 Letter from Shoosmiths dated 26 July 2013
- 6 Copy of email from Bedford Borough Council to North Northants
Joint Planning Unit dated 19 September 2013
- 7 Email from Amanda Lott dated 24 February 2014
- 8 Email from Malcolm O'Brien dated 21 February 2014
- 9 Email from Susie Bacon dated 20 February 2014
- 10 Email from Environment Agency dated 24 February 2014
- 11 Overview Report to Planning Committee 27 February 2014
- 12 Letter from Endurance Property Ltd dated 18 February 2014
- 13 Email from David Wilson Homes dated 6 February 2014
- 14 Appellant's response to third party representations
- 15 List of Draft Conditions
- 16 Signed Section 106 Planning Obligation
- 17 North Northamptonshire Authorities' Monitoring Report 1 April
2012 to 31 March 2013 – dated February 2014
- 18 Additional Statement to the Proof of Evidence of Nigel Ozier
- 19 Copy of Inspector's interim conclusions on the Stage 1 of the
examination of the South Worcestershire Development Plan
- 20 Copy of Appeal Decision APP/H1840/A/12/2171339
- 21 Plan showing location of services in Broughton
- 22 Closing submissions on behalf of Local Planning Authority
- 23 Closing submissions of the appellant

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

- 1 List of revised conditions and appellant's comments.
- 2 Community Infrastructure Levy Compliance Note
- 3 Submission by the Council dated 7 March 2014 following
publication of the Planning Practice Guidance on 6 March 2014
- 4 Letter dated 10 March 2014 from Nigel Ozier on behalf of the
appellant in response to the Council's submission on the Planning
Practice Guidance