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## Appeal Decision

Inquiry held on 21-23 August 2018

Site visit made on 23 August 2018

**by Michael Boniface MSc MRTPI**

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

**Decision date: 3 September 2018**

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**Appeal Ref: APP/Y2620/W/18/3193438**

**Land between Aylsham Road and Greens Road, North Walsham**

- 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 MLN (Land and Properties) Ltd, Simon Rossi, Katherine Beardshaw, Nigel Rossi and Julian Rossi against the decision of North Norfolk District Council.
  - The application Ref PO/17/0549, dated 4 April 2017, was refused by notice dated 3 August 2017.
  - The development proposed is up to 200 dwellings, open space, supporting infrastructure and other associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The application was submitted in outline with details of the proposed access only. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration. I have dealt with the appeal on this basis.

### Main Issue

3. The main issue is whether the proposal accords with the development plan (with particular regard to Policies SS 1 and SS 2 of the Core Strategy) and if not, whether material considerations indicate a decision other than in accordance with the development plan.

### Reasons

4. The development plan, so far as it is relevant to the appeal, comprises the Core Strategy (2008) (CS) and the Site Allocations Development Plan Document (2011) (Site Allocations DPD). It is common ground between the parties that the proposal accords with all relevant policies of the development plan, except Policies SS 1 and SS 2 of the CS.
5. Policy SS 1 sets out the spatial strategy for North Norfolk, seeking to focus the majority of new development in the towns and larger villages referred to as Principal and Secondary Settlements. A small amount of development is to be focused on designated Service Villages and Coastal Service Villages to support rural sustainability. The remainder of the district is designated as countryside where development is to be restricted to particular types of development to

- support the rural economy, meet affordable housing needs and provide renewable energy. Policy SS 2 relates specifically to the countryside area, limiting development to that specified in the policy which is recognised to require a rural location.
6. North Walsham is a Principal Settlement but the proposed development falls outside of the settlement boundary defined for the town and is therefore in countryside. The proposal does not meet the policy criteria for a countryside location. As such, it is accepted by the appellant that the scheme is in conflict with Policies SS 1 and SS 2.
  7. These are strategic policies that set out the overarching approach for distributing development across the district, promoting sustainable patterns of development and protecting the countryside. In my view, they are fundamental to the effective operation of the plan.
  8. There was much discussion during the Inquiry about the degree to which these policies are consistent with the National Planning Policy Framework (2018) (the Framework). However, it seems to me that there is nothing novel or onerous in the requirements that they impose. The Framework actively expects strategic policies to set out an overall strategy for the pattern, scale and quality of development. Broad locations for development should be indicated and land use designations and allocations identified. The intrinsic character and beauty of the countryside should be recognised. That is precisely what these policies do, along with the Site Allocations DPD.
  9. Far from introducing a blanket ban on development in the countryside as the appellant asserts, Policy SS 2 sets out a broad range of development types that will be supported in the countryside with the express aim to support the rural economy, meet local housing needs and provide for particular uses. Albeit that, in my view, the Framework's policy for rural housing has little relevance to this appeal proposal involving large scale residential development adjacent to the largest Principal Settlement in the District, the objectives of Policy SS 2 are closely aligned with the Framework and the permissible criteria extensive.
  10. For all of these reasons, I consider that Policies SS 1 and SS 2 are broadly consistent with the Framework. With respect to Policy SS 2, a similar conclusion was reached in an appeal close by at Holt<sup>1</sup> having regard to the previous iteration of the Framework. The appellant accepts that there is nothing in the revised version that should lead to a different outcome in this case.
  11. In addition, the appellant accepts that the development plan is operating effectively and is delivering its objectives. It is common ground that the Council can currently demonstrate a 5.02 year housing land supply and the Council expects this to increase following publication of the next household projections. It is further agreed that the evidenced need for affordable housing over the coming years is 95 dwellings per annum and that the expected supply more than fulfils this requirement. This is notwithstanding the appellant's claim that there is likely to be a greater unquantified and un-evidenced need for affordable housing. Clearly, the undisputed need for housing evidenced in the SHMA<sup>2</sup> is more reliable for the purposes of this appeal.

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<sup>1</sup> APP/Y2620/W/14/3000517

<sup>2</sup> Central Norfolk Strategic Housing Market Assessment 2017

12. The proposed development would be consistent with many of the detailed objectives and purposes of Policies SS 1 and SS 2 contained within the supporting text of the CS. However, a focus on the lack of conflict with detailed objectives such as landscape character protection ignores the strategic purposes of the policies to ensure that the plan is truly spatial, reflects local needs and the role of different settlements, as well as the need to deliver suitable infrastructure alongside planned development. This is the essence of a plan led system. The approach is defined by statute and its importance reinforced by the Framework.
13. In this case, there is a clear conflict with the development plan in both policies SS 1 and SS 2 of the CS. Having determined that these policies are broadly consistent with the Framework and identified their fundamental and strategic role, I find that there is conflict with the development plan taken as a whole. This is notwithstanding that the proposal accords with other policies of the development plan. The development plan is operating effectively, delivering the necessary level of homes as part of its overall approach. For all of these reasons, I attach substantial weight to the identified conflict with the development plan.
14. I have had regard to the emerging Local Plan for the area and the Council's intention to pursue development of the appeal site as part of a larger allocation in North Walsham. However, the emerging Local Plan is at a very early stage and is yet to be consulted upon. There can be no certainty whatsoever that the plan will progress in line with this intention or that it will remain as currently anticipated following consultation and examination. As such, I attach this matter very little weight. In any case, the appellant accepted during the Inquiry that development of the type envisaged would only be sustainable if requisite infrastructure was delivered alongside it. The appeal scheme would not deliver or contribute to the package of infrastructure anticipated by the emerging Local Plan in any coordinated fashion, notwithstanding that it might facilitate an element of it if the proposed roundabout were suitable as part of the expected link road.
15. The appellant identifies a range of public benefits that would arise from the development, none of which are disputed by the Council in principle. In the context of the Framework's objective to significantly boost the supply of homes, the delivery of market and affordable housing weighs in favour of the proposal, providing greater certainty that needs would be met and contributing to the early delivery of affordable housing in the area. However, given that the Council can already demonstrate a supply of both market and affordable housing sufficient for the next five years of need, I attach this benefit no more than moderate weight.
16. I note that other Inspectors' and the Secretary of State have attached different levels of weight to the provision of housing, including in situations where a five year housing land supply could be demonstrated, but that is unsurprising given the need to assign weight dependent on the merits of each case. I do not know the full circumstances in the examples provided by the appellant and I have seen none which directly reflects the circumstances in this case so as to have any bearing on my conclusion.
17. An extensive range of off-site highway works are proposed in recognition of the existing substandard highway conditions in the vicinity of the site. The

majority of these are required to mitigate the impacts of the development though there would also be clear advantages to existing users of the highway network in improving the current situation. I have significant reservations about whether the proposed roundabout, at the specification proposed, could legitimately be secured by conditions given that both parties agree it goes far beyond what is required to mitigate the impacts of the development. My concerns are amplified by the appellant's acceptance that the offer of such infrastructure is made in an effort to induce favour for the scheme. However, even if the entirety of the proposed off-site works were secured and taken into account, they would attract no more than moderate weight given the extent to which they mitigate the additional impacts of the development.

18. I attach limited weight to the potential landscape benefits, including improving the appearance of the existing hard settlement edge, and the potential biodiversity enhancements that might be secured. The economic benefits of the scheme through Council Tax receipts, New Homes Bonus, employment opportunities and additional expenditure by future residents would be realised from any policy compliant residential development but would nonetheless be a benefit to the local area and attracts limited weight.
19. Taking the entirety of the benefits identified by the appellant into account along with all other material considerations, even cumulatively they do not indicate a decision other than in accordance with the development plan. The fact that there is no harm identified, other than the conflict with the development plan, does not affect this conclusion.
20. In light of the above, the appeal is dismissed.

*Michael Boniface*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Estelle Dehon, Counsel

She called:

Mark Ashwell MRTPI          Planning Policy Manager

Sarah Hinchcliffe MRTPI      Major Projects Team Leader

### FOR THE APPELLANT:

Trevor Ivory, Solicitor

He called:

Matt Cleggett CIHT CILT      Director, Vectio Consulting Ltd

Richard Walters MRTPI        Director, Broadgrove Planning & Development

### INTERESTED PERSONS:

Ann Moore

Councillor

Elaine Addison

Councillor

Bernie Marfleet

Save Our Streets

Nigel Ward

Local resident

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- 1 Agreed list of conditions
- 2 Draft S106 agreement
- 3 High Court Judgement [2001] EWHC 1116 (Admin)
- 4 Eastern Daily Press article (31 October 2017)
- 5 Appellants' Opening Statement
- 6 Council's Opening Statement
- 7 Copy of oral statement by Ann Moore
- 8 Copy of oral statement by Elaine Addison
- 9 Habitat Regulations Assessment
- 10 Extract of NPPF Consultation Proposals, Pages 8-9
- 11 Draft S106 agreement
- 12 Copy of oral statement by Bernie Marfleet, Save Our Streets
- 13 Highway Measures Benefit Matrix
- 14 Copy of Appendix 3 to Richard Walters Proof
- 15 High Court Judgement [2018] EWHC 633 (Admin)
- 16 Court of Appeal Judgement [2016] EWCA Civ 1146
- 17 Council's Closing Statement
- 18 Appellants' Closing Submissions
- 19 Completed S106 agreement
- 20 Agreed site visit route