



Appeal Decision

Hearing held on 18 October 2018

Site visit made on 18 October 2018

by Caroline Jones BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2018

Appeal Ref: APP/L2820/W/18/3194871

Land at Grange Road, Little Cransley, Broughton, Kettering NN14 1PH

- 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 Snowdon Homes Ltd against the decision of Kettering Borough Council.
 - The application Ref KET/2017/0615, dated 26 July 2017, was refused by notice dated 28 November 2017.
 - The development proposed is residential development of up to 20 dwellings – demolition of existing house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for subsequent approval. To the extent that the application contains some information relating to the reserved matters, I have treated the details as being indicative as to how the site might be developed.
3. Prior to the Hearing the appellant submitted an amended 'Illustrative Layout Plan' ref 15027-SK100 Rev B, 'Refuse Vehicle Tracking' ref 15027-SK102 and 150207-SK103 and an updated Noise Impact Assessment dated 30 May 2018. At the Hearing all parties confirmed that they had had sight of these documents. The Council stated that the submitted documents addressed its concerns expressed in the 4th, 6th and 7th reasons for refusal in relation to highway safety, boundary trees and hedgerows and living conditions for future occupiers. Having regard to the submitted information and from the discussions at the Hearing I have no reason to reach a different view on these matters. I have determined the appeal on this basis and adjusted the main issues, as I had initially identified them at the Hearing, accordingly.
4. A draft Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted at the Hearing. A signed and executed copy was submitted after the event. The UU provides for financial contributions to education, community facilities, libraries, off site highway works, bus passes and affordable housing. The Council has raised no concerns to the executed UU and confirmed at the Hearing that the contributions secured addressed its concerns embodied in the 5th reason for refusal. I return to this matter below.

5. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaces the first Framework published in March 2012. The parties have had an opportunity to comment on the revised Framework and its relevance to the determination of this appeal either prior to or during the Hearing. References to the Framework in this decision therefore reflect the revised Framework.
6. Following determination of the application and submission of the appeal, the Broughton Neighbourhood Plan (NP) was made. The NP now forms part of the development plan for the area. The parties have had the opportunity to comment on the implications of the NP to their case both prior to and during the Hearing.

Main Issues

7. Based on the evidence before me and from the discussions at the Hearing, I consider the main issues to be:
 - Whether the site is a suitable location for housing having regard to local and national policies for residential development in the countryside; and
 - The effect of the proposal on the character and appearance of the area, including the setting of Broughton Conservation area.

Reasons

Location

8. The North Northamptonshire Joint Core Strategy (2016) (JCS) provides the strategic context for delivering sustainable growth in the area and provides a framework for more detailed Part 2 Local Plans and Neighbourhood Plans. It defines the roles that the 'Urban Areas' (Growth towns and market towns) and 'Rural Areas' (villages and countryside) will play, with the overarching approach to the location of development focussed on the urban areas as the most sustainable locations.
9. There is no dispute between the parties that the appeal site is located within the rural area as defined in the JCS. Policy 11 states that development within the rural areas will be limited to that required to support a prosperous rural economy, or meet a locally arising need which cannot be met more sustainably at a larger nearby larger settlement. It goes on to say that small scale infilling will be permitted on suitable sites within villages and that Local and Neighbourhood Plans will identify sites within or adjoining the villages to meet the rural housing requirements set out in the JCS. This approach is also reflected in Policy 29 of the JCS which provides for the distribution of new homes.
10. Policy 1 of the NP identifies a distinct separation between the built village area and the rural countryside by defining the village boundary. Together with Policy 2 of the NP, this seeks to direct development to sites within the village, providing a clear position on where development is acceptable and where it is not. It was agreed at the Hearing that the appeal site lies outside of the defined village boundary and is therefore within the open countryside for planning policy purposes. Saved Policy 7 of the Kettering Local Plan (1995) (LP) states that planning permission for development within the open countryside will not be granted except where otherwise provided for in the plan. Policy RA5

- of the LP makes it clear that permission will only be granted in the countryside for residential development in exceptional circumstances. No such circumstances are demonstrated in this case.
11. There is no dispute between the parties that the Council can identify a 5 year supply of housing and that the aforementioned policies are to be considered up- to-date.
 12. Nevertheless, the appellant is of the opinion that the proposal does not necessarily conflict with the JCS when considered as a whole. It was put to me at the Hearing that residential development in this location would not undermine the overarching sustainability objectives of the plan. It was submitted that the proposal accorded with the aims and objectives of Policy 1 (presumption in favour of sustainable development) and Policy 11 of the JCS by providing housing in an accessible location which would meet the housing needs of Broughton identified by the Council in the emerging Site Specific Part 2 Local Plan – Draft Plan (2018) (the emerging plan).
 13. The supporting text to JCS Policy 11 states that whilst infill development includes land which is bound by existing built curtilages on at least two sides, this must be within the main built up area of the village. In order to clarify the application of the policy it goes on to say that Part 2 Local Plans and/or Neighbourhood Plans may define village boundaries so that they are able to plan positively for growth and to prevent ad-hoc encroachment into open countryside. Given that the site lies outside of the village boundary defined in the NP, it would represent an encroachment of development into the open countryside and would not equate to the infill development permitted by Policy 11. Thus the proposal conflicts with approach to the location of development advocated by Policies 11 and 29 of the JCS, Policies 7 and RA5 of the LP and Policies 1 and 2 of the NP.
 14. I acknowledge that within the emerging plan the appeal site lies within the village boundary and is allocated as a potential housing site for up to 20 dwellings. There is dispute between the parties as to the weight that can be afforded to the emerging plan at this time, with the appellant of the opinion that it should be afforded considerable weight and the Council only limited weight. At the Hearing, the Council confirmed that consultation on the draft plan had taken place over summer 2018 but that there were a number of unresolved objections to the plan. The intention is to go back out to consultation on a pre-submission draft by the end of the year, with potential adoption by the end of 2019. In light of the early stage of preparation, the unresolved objections and having regard to paragraph 48 of the Framework, I agree with the Council the emerging plan can only be attributed limited weight at this time.
 15. That said, even if I were to afford the emerging plan more than limited weight, the supporting text in the Broughton chapter is very clear that if the Neighbourhood Plan is successful and formally 'made', the Council will remove policies relating to Broughton in favour of those in the Neighbourhood Plan and that policies relating to the allocation of housing will be withdrawn. Thus the emerging plan does not weigh in favour of the appeal scheme.
 16. I note the appellants' frustration that, up until this time, the site was advanced by the Council as being suitable for housing. Broughton is also identified as a larger village with a number of services and facilities. As the appeal site adjoins

the village boundary, access to these services and facilities from the development would be broadly comparable to properties within the village boundary. Nonetheless, the NP makes it clear that one of the purposes of the village boundary is to provide certainty so that users of the plan can understand what is likely to be permissible. The NP has been the subject of public consultation and debate during its preparation and the village boundary was decided during that process. It now forms part of the development plan, with decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

17. At the Hearing, the appellant submitted that the housing requirement within the JCS for the rural area and within the NP would not be achieved within the plan period and that the proposal would contribute to this housing need. However, at the Hearing the Council advised that there was no reason to believe that the rates of development would not meet the requirement. Moreover, I note in the Examiners report for the NP that the Council confirmed that it was content that the level of housing provision identified in the plan took into consideration the latest available evidence on housing needs and that the plan, along with the draft housing allocations in other settlements currently being progressed through the emerging plan, would meet the minimum rural housing requirement for the Borough identified in the JCS. In the absence of any substantive evidence to the contrary I have no reason to conclude otherwise.
18. Whilst recognising that housing requirements are not a cap on development, as the Council is able to demonstrate a 5 year supply of housing I see no reason to deviate from the current strategy. The proposal would conflict with the up-to-date plan led approach to the location of housing within the JCS, LP and NP. I therefore conclude that the site would not provide a suitable location for the proposed housing.

Character and appearance

19. The appeal site is a roughly rectangular paddock which lies on the northern edge of the village. It is bounded on three sides by residential development with the A43 a short distance to the north. The boundary of Broughton Conservation Area (BCA) adjoins Cox's Lane to the south of the appeal site.
20. Broughton is a large village with a pleasing rural character. Whilst boundary planting affords a degree of screening to the site, the unspoilt open qualities and pastoral character with established hedgerows and trees makes an important and pleasant contribution to the rural setting of Broughton. At the Hearing, Councillor Shrive said it was the last remaining evidence of the village farm which once occupied this part of the village. Given the recent development of the land to the west for housing, this remaining parcel of agricultural land cutting into the village, provides a welcome sense of space in an otherwise built up boundary. The result is a verdant visual break in built form pointing to its agricultural past and contributing positively to the character and appearance of the area.
21. The southern boundary of the appeal site bounds the BCA. The Broughton Conservation Area Appraisal (the appraisal) identifies its special interest as a village with an agricultural character which is still strongly linked to its rural, agricultural past with many high quality green spaces close to and accessible from the central part of the village. The appraisal states that open land cutting

- into the village reinforces this character, with the open spaces and gaps between buildings allowing constant views out towards the countryside.
22. I note that during the consultation process for the appraisal, a tight rather than loose boundary was chosen for the Conservation Area. Although the appeal site was identified as attractive, it was not identified as a key view or an important green space and was excluded from the boundary. Nonetheless, the significance of a heritage asset is derived not only from its physical presence but also from its setting. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The setting of a heritage asset may make a positive contribution to the significance of an asset and it can be harmed through development within an asset's setting.
23. Given its position and proximity to the BCA, the appeal site clearly forms part of its setting. However, the parties disagree on the contribution of this setting to the significance of the BCA. The appellant considers that by virtue of the screening afforded by its boundary vegetation, the contribution of the appeal site is limited. However, from all I have seen and heard, I agree with the Council that incursions of agricultural land into the village, such as the appeal site, provide an important visual and physical link between the village and its rural surroundings reinforcing its agricultural character. Consequently, I consider that the agricultural and rural setting provided by the appeal site makes a positive contribution to the significance of the BCA as a whole.
24. The development of up to 20 houses would result in an urbanising encroachment into the countryside. It would diminish the visual gap and break in built form that the site provides. The presence of residential development on its boundaries does not justify the erosion of the pleasing, unspoilt, open and pastoral qualities of the site that would occur if the development were to go ahead. Thus it would detract from the rural and agricultural setting which is integral to the character and appearance of Broughton and the significance of the BCA.
25. The existing boundary trees and hedgerows do not screen the site in its entirety, particularly in the winter months when the trees will be without leaf. Gaps within the vegetation allow clear views from the public footpath running to the west of the site (GD15) and glimpses of the appeal site can also be seen from the A43. The development would also be visible from surrounding properties.
26. It is noted that the illustrative layout more or less reflects the density of surrounding development and that the final quantum, layout, design and the appearance of the proposed dwellings is a matter reserved for future approval. Nonetheless, even if the proposed dwellings were constructed sympathetically and to a high quality, these matters do not overcome the harm I have identified above.
27. For the aforementioned reasons, I conclude that the proposed development would have a materially harmful impact on the character and appearance of the area, and on the significance of the BCA. Accordingly, the proposal conflicts with Policies 2 and 8 of the JCS which require, amongst other things, that development should respond to the site's immediate and wider context and local character and landscape setting of the settlement and conserve the significance of heritage assets.

28. The finding of harm to a heritage asset is a finding to which I must attach considerable importance and weight. Given the localised impact, that harm would be less than substantial. In which case, under paragraph 196 of the Framework, it falls to be weighed against the public benefits of the scheme. This is a matter to which I return below.

Other Matters

29. I have had regard to the recent development by Redrow homes on land to the west of the appeal site. I note that this site was also an agricultural field, outside of the village boundary and its contribution to the character and appearance of the area and the setting of the BCA was broadly comparable to the appeal site. However, that development predates the NP and the decision was taken at a time when the Council could not demonstrate a 5 year supply of deliverable housing sites. Therefore, the policy context under which the development was considered differs to the case before me and does not justify granting permission for the appeal scheme.
30. During the Hearing the appellants raised concerns about the way in which the Neighbourhood Plan process was handled. However, the NP is now made and it is not a matter for this appeal to consider the process which led to its making.

Planning Obligations

31. Among other matters, the amended UU includes an obligation which aims to ensure that 30% of the dwellings would be affordable and provided on site. Having regard to the submitted UU and from the discussions at the Hearing I am satisfied that the obligation meets the tests set out in the Framework and Regulation 122(2) of the CIL Regulations being necessary, directly related to the development and reasonably related in scale and kind to the development. It therefore complies with Policy 30 of the JCS. The provision of affordable homes is a benefit which weighs strongly in favour of the scheme and I have taken it into account in my decision.
32. The UU also provides obligations in relation to education, community facilities, libraries, off site highway works and bus passes. Such contributions offset the effect of the development on local services and infrastructure and so cannot weigh in favour of the proposal. In any event, given my conclusions below, it is not necessary for me to consider whether these obligations meet the tests in the Framework or CIL regulations.

Planning Balance

33. I have found that the site would not be a suitable location for housing and would harm the character and appearance of the area, including less than substantial harm to the character and appearance of the BCA to which I give considerable importance and weight. I have found conflict with the development plan in these regards. As the Council can demonstrate a 5 year supply of housing, the relevant policies are up-to-date and the so-called tilted balance advocated in paragraph 11 of the Framework is not engaged. In accordance with paragraph 12 of the Framework, where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan) permission should not normally be granted. As I set out earlier, decisions may depart from an up-to-date

development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

34. Notwithstanding that the Council can demonstrate a 5 year supply of housing, the appeal scheme would contribute to the supply of housing in the rural area in what is a relatively accessible location. The provision of affordable housing also weighs strongly in favour of the scheme. The scheme would also bring about economic benefits, including those during the construction phase and in the longer term in supporting local services and facilities.
35. Whilst the aforementioned benefits weigh in favour of the appeal scheme, they are not sufficient to outweigh the harm identified in relation to location, the character and appearance of the area and the less than substantial harm to the character and appearance of the BCA. Thus, as the proposal conflicts with an up-to-date development plan and there are no material considerations in this case which indicate that the plan should not be followed, permission should not be granted. As such, having regard to the Framework and the development plan as a whole, the proposal does not constitute sustainable development.

Conclusion

36. For the reasons given above I conclude on balance that the appeal should be dismissed.

Caroline Jones

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mr Nigel Ozier Agent

Mr Andrew Gray Agent

FOR THE LOCAL PLANNING AUTHORITY:

Sean Bennett Senior Planning Officer

Julia Baish Development Team Leader (Policy)

INTERESTED PERSONS:

Robin Shrive Parish Councillor

Jim Hakewill Councillor

Mary Rust Broughton NP Steering Group

Pat Scouse Neighbouring resident

DOCUMENTS SUBMITTED AT/FOLLOWING THE HEARING

1. Draft Unilateral Undertaking
2. Broughton chapter of the Site Specific Part 2 Local Plan – Draft Plan
3. Appeal Statement: Appendices
4. Consultee responses to original application
5. Executed Unilateral Undertaking dated 23 October 2018.