



Appeal Decisions

Site visit made on 6 December 2018

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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

Decision date: 15 January 2019

Appeal A Ref: APP/P3040/W/18/3206324

Land north of Abbey Lane, Aslockton, Nottinghamshire NG13 9AE

- 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 Mr James Sheardown against the decision of Rushcliffe Borough Council.
 - The application Ref 17/02582/OUT, dated 30 October 2017, was refused by notice dated 9 February 2018.
 - The development proposed is outline application for up to 10 dwellings with all matters reserved except access.
-

Appeal B Ref: APP/P3040/W/18/3214439

Land north of Abbey Lane, Aslockton, Nottinghamshire NG13 9AE

- 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 Mr James Sheardown against the decision of Rushcliffe Borough Council.
 - The application Ref 18/01569/OUT, dated 2 July 2018, was refused by notice dated 29 August 2018.
 - The development proposed is outline application for up to 6 dwellings with all matters reserved except access.
-

Decisions

1. **Appeal A:** The appeal is allowed and planning permission is granted for up to 10 dwellings with all matters reserved except access at Land north of Abbey Lane, Aslockton, Nottinghamshire NG13 9AE in accordance with the terms of the application, Ref 17/02582/OUT, dated 30 October 2017, subject to the conditions set out in the attached schedule.
2. **Appeal B:** The appeal is allowed and planning permission is granted for up to 6 dwellings with all matters reserved except access at Land north of Abbey Lane, Aslockton, Nottinghamshire NG13 9AE in accordance with the terms of the application, Ref 18/01569/OUT, dated 2 July 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

3. I have included the full site address in the banner headings in the interests of clarity and completeness.

4. The applications were submitted in outline with all matters except access reserved for consideration at a later stage. I have dealt with the appeals on this basis, treating the proposal block plans and site sections as illustrative.
5. The decision notice for Appeal A refers to the absence of an ecological survey as a reason for refusal. As an Ecological Appraisal was subsequently submitted which confirmed the absence of protected species on this site the Council have indicated that they consider this reason for refusal to have been addressed. Whilst a third party refers to the presence of bats, there is no evidence before me to support this.

Approach and Main Issues

6. The appeals relate to the same site and similar proposals, varying only in scale. As the issues to be addressed in both are also substantially the same I have dealt with them in a single decision, in the interests of clarity and brevity. The main issues are:
 - Whether the proposals would support the spatial strategy for the borough as set out in Local Plan Policy 3;
 - The effect of the proposals on the character and built form of the village of Aslockton; and
 - Whether there is sufficient information regarding the effect of the proposals on potential archaeological remains on the site.

Reasons

Spatial strategy

7. Policy 3 of the Rushcliffe Local Plan Part 1: Core Strategy (2014) (LP) sets out that the sustainable development of Rushcliffe will be achieved through a settlement hierarchy that supports the principle of the urban concentration of development. It sets out that this would be achieved through extensions to the main built up area of Nottingham, with other key settlements also identified for growth. In other settlements development will be for local needs only. In terms of housing, the supporting text to this policy refers to the fact that such local needs will be delivered through "small scale infill development", though noting that "where small scale allocations are appropriate to provide further for local needs these will be included in the Local Plan Part 2". I am aware that no allocations have been made to Aslockton in Part 2, but that this may be challenged at the LP hearings.
8. The appeal schemes propose 6 and 10 dwellings respectively, located to the north of Abbey Lane, on the western side of this modestly sized village. It would be located behind the largely linear frontage development along this side of the road. As the village currently has 400 or so dwellings, the addition of 10 dwellings would be stretching the definition of "small scale". The 6 dwelling scheme would be of a more reasonable size. Also the definition of "infill" is generally taken to be a gap in an otherwise built up frontage. As the schemes would extend significantly away from the main frontage they cannot reasonably be considered to represent this type of development.
9. No reference is made by the main parties as to whether the schemes would provide for local needs. However, as I am aware that directly to the south on

the other side of Abbey Lane a development of up to 75 dwellings is currently being implemented, it does not appear that the appeal schemes could be justified on this basis.

10. The supporting text to LP Policy 3 sets out that sustainable growth across the settlement hierarchy will be achieved by taking into consideration a range of factors such as accessibility, environmental constraints and the capacity of existing or planned services, facilities and job opportunities.
11. The village has a modest range of facilities and services with a nursery, school, public house, post office, village hall and hairdressers. I am aware from representations made by interested parties that this may have reduced in recent years, for example the closure of the village shop. The village has regular bus services and a train station with reasonably regular services into Nottingham, though outside commuter times it appears that trains are infrequent. I am aware that the bus service may have reduced in recent years and that there is no longer a direct service into Nottingham.
12. Whilst local services and facilities would not meet all day to day needs, it remains that there are sustainable transport options connected with this settlement. Nevertheless, taking a realistic view, in this location residents would to a large degree be dependent on private motor vehicles to meet most of their transport needs.
13. I therefore conclude that the appeal schemes would not meet the criteria for the type of development suitable for settlement such as Aslockton as set out in Local Plan Policy 3. As such it would not support the spatial strategy for the borough.

Character of Aslockton

14. The village has evolved from its historic core around Main Street to include ribbon development of varying character and appearance along the main routes out of the village. The ribbon development on the northern side of Abbey Lane has a depth of mostly one or two dwellings along its northern side, with development extending towards the railway line on the southern side. The appeal site is a small field behind the northern frontage development. It is to some degree contained by dwellings to the east (some converted from the former Malthouse), a small copse directly to the west, and the large disused agricultural buildings to the north. Beyond this the rural hinterland is clearly apparent as the setting for the village.
15. Both of the appeal schemes would extend beyond the main area of the established pattern of built form of the village. The Appeal A scheme is illustrated as largely filling the site with four short rows of dwellings. As such the extent of development would appear as an intrusive addition, eroding the rural setting of the village, particularly when viewed from footpath 3 to the east. Whilst the degree of intrusion into the open countryside would be to some degree moderated by the setting adjacent to existing buildings, including the agricultural buildings to the north, and the mature hedgerow along its eastern boundary it would nonetheless represent an incursion into the rural setting of the village.
16. The illustrative layout suggests that the Appeal B scheme would not include the northernmost row and as such the degree of divergence from the established

development pattern would be reduced. More specifically, it appears that if the illustrative layout were to be followed, the built form of the dwellings would extend moderately further north than the Malthouse dwellings, thereby to some degree containing the built extent of development.

17. Some argue that the conversion of the Malthouse to dwellings should be disregarded from an assessment of the assimilation of this development. However, it remains that these buildings are part of the built form of the village, with the appeal schemes closely adjoining.
18. Nevertheless, both of the appeal schemes would represent an extension of the village envelope. In this sense there would be conflict with Policy HOU2 of the Rushcliffe Borough Non-Statutory Replacement 2006 (Non-Statutory LP) which states that permission for unallocated development within settlements will be granted providing that the size and location of the site is such that its development would not detrimentally affect the character or pattern of the surrounding area or the settlement as a whole, and the development of the site would not extend the built-up area of the settlement. However, I find the reduced extent of the Appeal B scheme would mean that the degree of harm caused would be less significant than the Appeal A scheme.
19. I therefore conclude that the proposals would have a detrimental effect on the character and built form of the village of Aslockton. As such, in addition to the conflict with the Non-Statutory LP Policy HOU2, there would be conflict with the requirement that planning decisions "should contribute to and enhance the natural and local environment ...by recognising the intrinsic character and beauty of the countryside", as set out in the National Planning Policy Framework (the Framework) at paragraph 170.

Archaeology

20. The appellant's Historic Environment Desk-Based Assessment (HEDBA) indicates that, whilst there are no recorded heritage assets within the site, there has been a reasonably high degree of human activity in the vicinity of the appeal site from the Prehistoric period onwards. It therefore has a generally high potential to contain previously undiscovered archaeological remains relating to all periods from the Palaeolithic Period onwards. More specifically it holds a high archaeological potential for remains dating to the Mediaeval Period and later, though these are likely to be of low significance. However, there is also considered to be moderate archaeological potential for remains of earlier periods, possibly remaining intact beneath the levels of medieval ploughsoil, or redeposited material within the ploughsoil itself. Such remains, particularly those relating to Prehistoric periods could be of regional or national significance, depending on their nature.
21. The HEDBA recognises that, if such remains exist, they may be subject to direct adverse impacts as a result of development on the site. However, it is suggested that such findings should not prevent development entirely and that it should be feasible to mitigate potential impacts with additional archaeological works. It recommends that the nature of further work should be discussed with the Council's heritage advisers. Whilst such discussions have not taken place, the Council's adviser suggests that a geophysical survey, or trial excavation of the site, would enable some clarification of the potential for archaeology.

22. At this outline stage the nature and depth of the groundworks which would be involved with the development of this site are not known. Without further clarity it is possible that, as set out in the Planning Practice Guidance (PPG), the potential knowledge which may be unlocked by investigation may be harmed even by minor disturbance, because the context in which archaeological evidence is found is crucial to furthering understanding¹. Nevertheless, recognising that the PPG also states that a proportionate response should be taken towards such assets, my view is that, should these schemes be acceptable in other regards, it would be possible to mitigate potential harm via a condition requiring further investigative works prior to development.
23. I therefore conclude that there is insufficient information regarding the effect of the proposals on potential archaeological remains on the site. As such there is conflict with LP Policy 11 which refers to the importance of the protection and enjoyment of the historic environment, including where there is to be a loss in whole or in part to the significance of an identified historic asset then evidence should first be recorded in order to fully understand its importance. It is also material to refer to Non-Statutory LP Policy EN7 which sets out that development affecting sites of known or suspected archaeological importance will only be permitted where the following criteria are met: there is a need for development which outweighs the importance of the archaeological site or its setting; the proposal is supported by an archaeological field evaluation of the site; and the proposed development would not damage the archaeological remains where these can be preserved in situ.

Other Matters

24. The appeal site is located some distance to the west of the Aslockton Conservation Area. The agricultural landscape clearly contributes to the setting of the Conservation Area. However, whilst the area between the appeal site and Conservation Area comprises open fields, and there is some limited inter-visibility between these areas, the modest scales of the schemes would mean that they would not significantly alter this setting. As such the character and appearance of the Conservation Area would be preserved.
25. The Malthouse and its ancillary building are non-designated heritage assets. The HEDBA states that the change of use of a parcel of agricultural land historically associated with these buildings would compromise the visual and physical connection between them. However, whilst I observed on site that the Malthouse and associated structures are located close to the appeal site, these structures and their setting have been altered and added to, including the bungalow to the south. Only the upper level of the Malthouse gable is visible in the wider area. The height of this element means that if development took place it is likely that it would remain visible from footpath 3 between Abbey Lane and Mill Lane to the east. As such, whilst the immediate rural setting of these structures would be altered, any harm to their setting would not be significant.
26. I have had regard to interested party comments relating to the width of the track and its ability to accommodate additional traffic, as well as the issue of visibility along Abbey Lane due to parked cars. In this regard it is suggested that the effects of additional traffic generated by the implementation of the

¹ Paragraph: 040 Reference ID: 18a-040-20140306

scheme to the south were not factored into the appellant's Transport Statement of 29 September 2017. However, based on the evidence before me, it does not appear that the appeal schemes would result in significant impacts on highway safety.

27. It is also suggested by third parties that flood risk matters have been incorrectly assessed, though there is no specific evidence before me in this regard.

Planning Balance and conclusions

28. The Local Plan Part 2 is progressing and the Council envisages that it will be adopted in early 2019. However, as I understand that the Examination hearings commenced at the end of November 2018 such a timescale is perhaps unrealistic. In order to help resolve the current shortfall in housing land, and address the fact that development in most of the large sites allocated in the Core Strategy has taken longer to get underway than anticipated, allocations in other settlements beyond the main urban area of Nottingham and key settlements are required.
29. I have noted that due to the large development under construction on the south side of Abbey Lane, and based on existing services and infrastructure, the Council is not proposing that any further greenfield sites should be allocated in Aslockton. This point reflects the concerns of interested parties about the cumulative effects of development in the village noting that, together with other developments underway since January 2016, the village will increase in size by around 24%.
30. Nevertheless the current situation regarding the supply of land for housing development is described by the appellant as 'acute'. Whilst details of the current calculations are not before me, the Council does not seek to challenge this view. As such it appears that the LP spatial strategy has not progressed as anticipated.
31. The proposals would be contrary to LP Policy 3 which seeks to strictly control development outside the main built up area of Nottingham and key settlements. However, the strict application of this policy would prevent improvements in the large shortfall in the supply of housing. Because of this I attribute limited weight to the conflict with this Policy.
32. I have found that there would be some harm to the character and built form of the village as it sits within its rural hinterland, and therefore the protection of the countryside. However this would be less so in relation to Appeal B which would be more closely associated with the existing built extent of the village, and both schemes would be reasonably well screened in the wider area. I have also found that further information is required to fully understand the archaeological potential of this site, though this issue could to some degree be addressed through condition. In combination, these conflicts with policy carry moderate weight in relation to Appeal A, though somewhat less weight in relation to Appeal B.
33. Set against these harms are the social and economic benefits of addressing the under supply of housing in the District. I attach significant weight to the provision of up to 10 units which could be delivered reasonably quickly.

34. Overall the adverse impacts identified above do not significantly and demonstrably outweigh the social and economic benefits. The somewhat greater harm identified in relation to Appeal A would be overcome by the additional contribution of 4 further units to housing supply. Consequently in both of the appeals the presumption in favour of sustainable development applies. In these cases, material considerations outweigh the conflict with the development plan as a whole and indicate that planning permission should be granted for developments that are not in accordance with it.
35. I therefore conclude that Appeal A should succeed, and Appeal B should succeed.

Conditions

36. I have had regard to the advice in the PPG when considering the conditions suggested by the Council. Conditions relating to details of drainage are necessary in the interests of the local environment, and they are required pre-commencement because this may affect the design/layout of the schemes. Conditions relating to archaeological field evaluation are necessary to fully understand the archaeological significance of the site. Conditions requiring a Contaminated Land Report are necessary in the interests of public health and safety. The latter two condition types are pre-commencement as they seek to mitigate impacts arising from the construction phase of development. Conditions relating to the implementation of vehicular access are necessary in the interests of highway safety.
37. It is not necessary to include conditions requiring development to be carried out in accordance with the detailed plans specified as these fall within the definition of matters reserved for subsequent approval. For the same reason I have not included conditions relating to details of materials and the external elevation of buildings, or requiring a landscaping scheme.

AJ Mageean

INSPECTOR

Schedule of Conditions:

Appeal A: APP/P3040/W/18/3206324

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not commence until details of facilities for the disposal of foul and surface water drainage have been submitted to and approved in writing by the Borough Council, and the approved facilities shall be provided prior to the occupation of any dwellings.
- 5) No works shall commence on site until a scheme for archaeological field evaluation including trial trenching by a professional archaeologist or archaeological organisation, has been submitted to and approved in writing by the Borough Council, and the development shall be carried out in accordance with the approved scheme.
- 6) The development hereby permitted shall not commence until a Contaminated Land Report has been submitted to and approved in writing by the Borough Council. As a minimum, this report will need to include a Desktop Study documenting historical uses of the site and its immediate environs, site specific interpretation and a conceptual site model explaining results. Where the Desktop Study identifies potential contamination a Detailed Investigation Report will also be required, including a site investigation documenting the characteristics of the ground, an evaluation of all potential sources of contamination and a risk assessment, together with an updated conceptual model. In those cases where a Detailed Investigation Report confirms that contamination exists, a remediation report and validation statement confirming the agreed remediation works have been completed, will also be required. All of these respective elements of the report will need to be submitted to and approved in writing by the Borough Council, prior to development commencing, and the development shall be carried out in accordance with the approved details.
- 7) No dwellings shall be occupied until the vehicular access as shown on drawing number 17-0272-001 Revision B has been provided and has been surfaced in a bound material (not loose gravel) for a minimum distance of 5 metres behind the highway boundary and drained to prevent the discharge of surface water from the driveway to the public highway. The bound material and the provision to prevent the discharge of surface water to the public highway shall be retained for the life of the development.

Appeal B: APP/P3040/W/18/3214439

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not commence until details of facilities for the disposal of foul and surface water drainage have been submitted to and approved in writing by the Borough Council, and the approved facilities shall be provided prior to the occupation of any dwellings.
- 5) No works shall commence on site until a scheme for archaeological field evaluation including trial trenching by a professional archaeologist or archaeological organisation, has been submitted to and approved in writing by the Borough Council, and the development shall be carried out in accordance with the approved scheme.
- 6) The development hereby permitted shall not commence until a Contaminated Land Report has been submitted to and approved in writing by the Borough Council. As a minimum, this report will need to include a Desktop Study documenting historical uses of the site and its immediate environs, site specific interpretation and a conceptual site model explaining results. Where the Desktop Study identifies potential contamination a Detailed Investigation Report will also be required, including a site investigation documenting the characteristics of the ground, an evaluation of all potential sources of contamination and a risk assessment, together with an updated conceptual model. In those cases where a Detailed Investigation Report confirms that contamination exists, a remediation report and validation statement confirming the agreed remediation works have been completed, will also be required. All of these respective elements of the report will need to be submitted to and approved in writing by the Borough Council, prior to development commencing, and the development shall be carried out in accordance with the approved details.
- 7) No dwellings shall be occupied until the vehicular access as shown on drawing number 17-0272-001 Revision B has been provided and has been surfaced in a bound material (not loose gravel) for a minimum distance of 5 metres behind the highway boundary and drained to prevent the discharge of surface water from the driveway to the public highway. The bound material and the provision to prevent the discharge of surface water to the public highway shall be retained for the life of the development.