



Appeal Decision

Inquiry opened on 30 April 2019

Site visits made on 3 and 8 May 2019

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2019

Appeal Ref: APP/Z2830/W/18/3206346

Land south of Kislingbury Road, Rothersthorpe NN7 3HZ

- 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 R L Collins, S Collins, C L Passmore-Jones, A Jones and Hollins Strategic Land against the decision of South Northamptonshire Council.
 - The application Ref: S/2017/2620/MAO, dated 24 October 2017, was refused by notice dated 8 January 2018.
 - The development proposed is the erection of up to 66 dwellings with associated landscaping, open space and vehicular and pedestrian access.
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Preliminary Matters

1. The application was submitted in outline with only the matter of site access to be considered at this stage. Although illustrative plans of the development as a whole were also available these are not part of the proposal before me.
2. The Council's decision notice included 5 reasons for the refusal of planning permission. Prior to the inquiry opening reasons 3, 4 and 5 relating to drainage, access and infrastructure contributions had been addressed. These matters are no longer in dispute between the Appellants and the Council and I deal with the remedies proposed, where necessary, later in this decision. Local residents remain concerned with regard to highway safety and other matters and I give full consideration to the most relevant of those matters below.
3. The site is located in a rural area close to the boundary of the South Northamptonshire Council area with Northampton Borough. The Northampton Related Development Area (NRDA) is to the north and seeks to enable development providing for the needs of Northampton in locations outside the Borough. Policy S4 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) – the JCS – is important in this regard. The JCS, together with saved policies of the South Northamptonshire Local Plan (LP) are the relevant parts of the development plan in this case. Although development outside the NRDA is not precluded JCS Policy S4 makes it clear that any such development will only be supported if it meets the vision, objectives and policies of the JCS.
4. The Vision, amongst other things, is to focus development on Northampton, Daventry, Towcester and Brackley, alongside a network of vibrant rural communities. Also of particular note is Objective 11, indicating that housing will be focused at the most sustainable location of Northampton, supported by the 3 towns noted above, with limited development in the rural areas to provide local needs and support local services. Objective 3 is similarly notable

- in that it seeks to reduce the need to travel, shorten travel distances, and make sustainable travel a priority.
5. I am aware of previous appeal decisions which have suggested that development to meet the objectives flowing from the requirements of the NRDA should, if not actually in the NRDA, be adjacent to or in close proximity to it. As such the development in those cases clearly serves to support the strategic policies designed to concentrate development in the NRDA. Each was determined in the light of the particular circumstances of the case.
 6. In the case before me the main parties disagree as to whether the appeal site can reasonably be assessed as having a relationship with the NRDA such that it can serve to assist in meeting its objectives. There are a number of factors to take into account here.
 7. First, the degree of physical separation from the NRDA in this case is significant. By no stretch do I consider that it can be described as being adjacent to the NRDA boundary, and nor do I consider it to be in close proximity. It is separated from the edge of Northampton by over 800m of open countryside and the M1 motorway. That is a significant gap. Secondly there is no material intervisibility between the appeal site and Northampton or the NRDA. Intervisibility is not a prerequisite for a meaningful relationship to exist but the intervening land clearly separates and encompasses distinct visual envelopes. Thirdly the site is on the edge of a village of rural character (which I deal with in more detail below) and is entirely different to the urban area of Northampton. For these reasons I do not accept that the appeal proposal can be reasonably said to fall within the ambit of JCS Policy S4. Rather it must be assessed against the clear steer from Policy S1 relating to the distribution of development (which includes 4 criteria for development in rural areas) and Policy R1, which deals with the spatial strategy for rural areas in more detail.
 8. At the inquiry I led a discussion on any conditions which might be imposed in the event of planning permission being granted. I have subsequently also received an executed S106 Obligation dealing with a number of matters. In light of my final conclusion it is not necessary for me to address these matters in detail as neither would affect the outcome of the appeal.

Decision

The appeal is dismissed.

Main Issues

9. With the context to the appeal as set out above I identify here the main issues to be determined. They are:
 - (a) Whether the Council can demonstrate a deliverable 5 year supply of housing land;
 - (b) Whether the site is an acceptable location for the proposed development;
 - (c) The impact of the proposed development on the character and appearance of the village and its surroundings;
 - (d) The impact of the proposed development on heritage assets;
 - (e) In light of my findings on the above, and any other matters, the planning balance to be struck.

Reasons

Housing Land

10. Background Position. In order to properly appreciate the housing land situation it is necessary to understand that South Northamptonshire Council (SNC) has for some time worked alongside Northampton Borough Council (NBC) and Daventry District Council (DDC) to seek to provide sufficient housing land. SNC and DDC each plan to accommodate some of the housing need for NBC (which cannot meet its needs within its boundaries). To that end (amongst others) the JCS was adopted in December 2014. That document clearly sets out the expected scale and distribution of housing development and includes the NRDA to cater for some of the needs of Northampton itself.
11. The NRDA is partially within both SNC and DDC and lies adjacent to the boundary of NBC. The needs of Northampton are to be met in part in sustainable urban extensions (SUEs) sitting in Daventry and South Northamptonshire. Those SUEs have not yet delivered at the pace anticipated by the housing trajectory and it is common ground that the deliverable housing land supply for the NRDA alone falls short of 5 years. For the SNC administrative area as a whole the overall expected provision from 2011 to 2029 (the JCS plan period) is about 11020 dwellings, of which some 3850 would be in the NRDA.
12. With that background in mind I turn to the claimed supply positions of each party, acknowledging that the calculations of supply are not an exact science. It is worth pointing out that in relation to the recently published Housing Delivery Test (HDT) results, each of the 3 authorities in West Northamptonshire exceeded its targets. But as rightly pointed out, the HDT results are an assessment of past delivery, and not necessarily an indication of future delivery. They are also measured on the administrative boundaries of each authority, with no separate measurement for the NRDA. The result of the HDT being met is that future supply calculations require a 5% buffer to be added.
13. The Council's most recent Housing Land Availability Study has a base date of 1 April 2018 but excludes the NRDA, and assesses deliverable land supply in the remainder of the district at almost 12 years based on the assessed housing need. Subsequently the Council has conceded that some sites should be excluded from the supply and that the appropriate figure should therefore be just over 11 years. As noted it is an agreed position that there is no 5 year supply within the NRDA itself. But I bear in mind here that the JCS seeks a higher delivery figure than assessed need in the district for 4 reasons which are not in dispute. I see no reason why the delivery expectations in the JCS (part of the adopted development plan) should not be used as the basis for calculations since it reflects JCS requirements. They are, after all, set out in Policy S3 of the JCS and the National Planning Policy Framework (NPPF) expects the plan making authority to identify a supply of deliverable sites sufficient to provide a minimum of five years worth of housing against their housing requirement set out in adopted strategic policies. Policy S3 is a strategic policy. Not to follow the expectations of the JCS would be in conflict with the development plan and the NPPF.
14. The supply calculations of the Council deduct oversupply in previous years from the requirement in the future; in this case a total of 635 dwellings are deducted. However this seems to me to be out of step with the national policy

objective of boosting housing supply significantly. I reject the argument that oversupply should be deducted from future supply for 2 main reasons¹. First, the delivery of houses will inevitably vary from year to year, and deducting past oversupply could lead to an artificially low expectation in the future, which would conflict with the national policy objective. Secondly housing need is expected to be reviewed every 5 years in any event, so in the event of significant oversupply action could be taken to address it in the short to medium term. In any case delivery expectations are not upper limits. Adding back the oversupply to the housing requirement for the next 5 years leads the Council to claim a deliverable supply of about 6 years if the NRDA is excluded.

15. Having concluded that the Council should be seeking to deliver the numbers set out in the development plan including the NRDA without deducting past oversupply, that leads me to the matter of deliverability in order to assess any degree of shortfall in supply.
16. The NPPF of 2019 sets out the definition of deliverable. For sites with outline planning permission there should be clear evidence that housing completions will begin on site within 5 years. This approach to deliverability (as consolidated in the last iteration of the NPPF) came after the Council's Housing Land Availability Study of April 2018, albeit that it was published some months later. I therefore have a degree of sympathy with the Council in that the onus of demonstrating deliverability has shifted and become somewhat more onerous; the Council acknowledges that in future it needs to provide more substantive evidence. However, it is now insufficient to rely on the fact that an outline permission exists. As Planning Practice Guidance (PPG) indicates the assessment should go further, and seek evidence that completions are likely to be forthcoming. In the present case this leads to a dispute on a number of sites in the SNC area.
17. The Council accepts that 2 sites should be removed from its supply, but these are of modest size. Of greater importance are the larger sites, for example those at Wood Burcote Court and Turweston Road. Assumptions of further phases of development have been made on the basis of delivery of current phases, but there is no real evidence to back up that position. Similarly, the evidence for further delivery at Towcester Vale is a very short email from a developer with what appear to be over optimistic delivery assumptions. Even were I inclined to agree that retrospective information could be fed into a land supply assessment this would not amount to the clear evidence of deliverability which is now required.
18. Dealing briefly with the windfall allowance it is not disputed that it is appropriate to include this as a part of future supply. The quantum is not agreed but the difference is small. In relation to the overall assessment which I turn to next it is not critical. Nonetheless I do agree that the Council's figure is likely to be somewhat overoptimistic in that it makes an allowance for windfalls as well as an allowance for delivery from small sites which already have planning permission. As a result the Council's position would see an increase above past trends without adequate justification for such a position.
19. In this case it is not necessary for me to delve into the fine detail of each individual site since any numbers, even if backed up by the clear evidence required, would inevitably be estimates. However, suffice to say that I largely

¹ I acknowledge that the principle is currently the subject of a case in the High Court

accept the Appellant's general position on the disputed sites with outline planning permission but no current detailed permission. The existence of development in early phases of major sites does not justify the assumptions made about future delivery. There needs to be some greater depth of insight into the likely development of future phases. There is nothing of the kind suggested by PPG, such as statements of common ground with developers, which assist in determining that sites will deliver in the next 5 years.

20. Taking the above matters together this means that the starting position is a requirement of about 4000 dwellings within the SNC area including the NRDA. The sites on which it has been demonstrated that delivery is likely amount to a figure of something over 2000 houses on the Appellant's calculations (about 2.5 years supply) and just over 3000 on the Council's assessment (about 3.8 years supply). In either case there is a clear and significant shortfall on the requirement to demonstrate a 5 year supply of deliverable sites. It is notable that if the delivery figure set out in the JCS is adopted, including delivery for the NRDA, the Council accepts that there is no 5 year supply². In accordance with the NPPF this must mean that the 'tilted balance' set out in paragraph 11 is engaged.
21. I note here that the Council indicates that future requirements for housing to serve Northampton will come forward in the JCS Review. That document, though, is a number of years away and provides no immediate solution to the needs for housing. Similarly the Local Plan Part 2, which is due for examination shortly, does not seek to allocate land to address the unmet needs for Northampton. Whilst it is likely that development will be required in the rural areas of the district each case will be required to be determined in the light of the specific circumstances of the case, as here.

Location

22. JCS Policy R1 does not preclude development in the rural areas. The strategy seeks to provide new housing commensurate with the position of a settlement in the hierarchy which is to be established in the Local Plan Part 2.
23. The village is close to Northampton but distinct from it. There is clearly some functional link in that children from the direction of Northampton use the village school and Northampton is the nearest employment and retail centre. Nonetheless it seems to me that the functional relationship between the village and Northampton is likely to be no greater than any other rural village in this locality. The village bus service is very limited and for the most part residents must rely on private motor vehicles to reach any destination outside the village, including Northampton. I have particular concerns that the bus service may indeed be further limited by lack of funds in due course as indicated in evidence, notwithstanding any potential short term assistance resulting from the S106 obligation. In addition, based on the evidence I heard there is no way of knowing whether the service will be able to survive until the S106 contribution is paid in the event of permission being granted. In any case the bus service would be likely to be unattractive to either the working population or those seeking to travel to Northampton or Towcester for other purposes.
24. The limited services in the village have been assessed in various ways over time, and I see no reason to depart from the view that Rothersthorpe is not a

² Ms Gingell Rebuttal Proof paragraph 7.1.3

higher order settlement in any hierarchy. I recognise that the forthcoming Part 2 Local Plan has not yet determined the position of the village in the hierarchy, but there is little before me suggesting it performs well. The fact that it is a short distance from Northampton is in its favour and potentially reduces car journey length, but that is only one of a number of relevant criteria, and in any event is overshadowed by poor public transport links. Whilst this is a matter in the end for the Local Plan examination, the evidence at the inquiry before me does not support the assertion that Rothersthorpe performs as anything other than a lower order settlement.

25. It was suggested at the inquiry that the fact that Northampton and its cycle network is within a moderate distance to the north east would enable cycling to be an alternative mode of transport. That is, in one sense, true simply because Banbury Lane is a road which connects with the cycle network. But the road is not attractive to cycling. It has a 60mph limit outside the village, is unlit beyond the village and makes no provision for cyclists off the main carriageway. There are single carriageway pinch points across river and canal for those wishing to go beyond the first connection to the cycle network, one of which is uncontrolled. As a result the road layout does not appear to me to be conducive to an attractively safe form of cycling. Nor is it a realistic proposition for walking. There are no footpaths over most of its length and, having walked along it in daylight, I can attest to the necessity to stand and wait on the grass verge when traffic approaches. It is not credible that walking would be a sensible and realistic option for reaching the employment sites at Swan Valley, or the wider Northampton area.
26. Taking these matters together it is my judgement that the very limited functional links and hindrances to accessibility between the village and Northampton detract from the location as an acceptable site for development. The tenuous links between the 2 settlements do not lead the proposed development to be correctly identified as being focused on or at Northampton such as to serve the NRDA objectives. Nor do I regard the site as being in close proximity to the NRDA as set out earlier. The single locational advantage of being physically close to Northampton is negated by the real difficulty of access other than by private vehicle. In terms of JCS Policy R1 there is acknowledged conflict since the site is outside the village confines. However part of the assessment criteria within the policy require consideration of accessibility by public transport, and Rothersthorpe performs poorly in this respect.

Character and Appearance

27. The surroundings of the village are attractive undulating countryside which is described in the county wide landscape character assessment. There is a mixture of arable and pastoral landscape in fields of varying size, often delineated by hedgerows which include trees. Villages are scattered across the area outside the main towns. Although there are some instances where long views can be appreciated, many locations are characterised by the restricted nature of views resulting from the intrusion of topography and vegetation.
28. Despite being quite close to Northampton, Rothersthorpe is a deeply rural village. It has a mixture of old and new development set within a partially ancient and partially modern road pattern. The nearby M1 motorway is audible but not particularly intrusive because of the intervening distance and

vegetation. The village therefore has a significant degree of tranquillity, especially in the heart of the settlement around North Street and Church Street.

29. The appeal site itself is used for grazing at present, and has strong boundaries of hedgerows around most of its perimeter apart from the north-east corner where it adjoins the village crossroads. Whilst there is some development alongside Banbury Lane to the east and Kislingbury Road to the north, this does not have the effect of drawing the site into the village. Nor does the collection of buildings to the south. Indeed the site is perceived in a straightforward way as an open field in the countryside, notwithstanding the stabling and caravan on the land. The character of the site is typical of the rural area surrounding villages in this part of the county.
30. It no doubt goes without saying that the introduction of up to 66 houses here would alter the character of the land and its surroundings. The field forming the site contributes to the character of the village surroundings and to a degree the wider landscape. Overall I consider that it is correctly assessed as having a moderate degree of sensitivity to change, somewhat less than the assessment made on behalf of the Council. However, I agree that the development would from several locations result in a high magnitude of impact because of its extent and scale on the edge of a relatively small settlement. Taken in the round the impact on the landscape would be moderate adverse, with a locally major adverse impact at close quarters.
31. Visually the site is prominent at the village crossroads and although it has no designation and no public access, this focal point imparts a moderate sensitivity to visual receptors. Given that any pedestrians here are unlikely to be following recreational routes I do not agree that a high sensitivity would be appropriate. Greater sensitivity would apply to users of the footpath to the west, but this is at greater distance, thereby reducing impact. The construction of houses on the site would lead to marked changes to the visual appreciation of the land, of major adverse significance when close to the site, but reducing with distance. Any planting would also reduce the magnitude of impact over time. Taken as a whole I consider that the proposal would result in a moderate adverse visual impact.
32. To sum up on this issue it is my judgement that development of the appeal site as proposed would result in moderate and locally major adverse impacts on landscape character, and a moderate adverse visual impact. Much of this impact flows from the scale of development proposed. The proposal would fail to enhance and maintain the distinctive character of the community in conflict with an objective of JCS Policy S1. As it would lie outside the existing confines of the village it would also fail to accord with JCS Policy R1. The Appellant accepts such conflict only because it would not be within the confines of the village, but in my judgement the policy conflict goes further than that single conflict, especially in relation to the proposed scale of development.
33. In further development plan policy terms the proposal does not meet any of the exceptions to permit development under the auspices of the saved Local Plan or the third part of JCS Policy R1. There is conflict with saved LP policies H6 and EV2, which taken together seek to control development outside the confines of villages and in open countryside areas of South Northamptonshire.

This conflict is acknowledged by the Appellant, though I note that the policies were developed in relation to now superseded structure plan requirements

Heritage

34. A large part of Rothersthorpe has been designated as a Conservation Area (CA) though the site is outside it. There are also listed buildings and a scheduled monument in the vicinity. Furthermore there are a number of undesigned heritage assets identified nearby. It is common ground that any impact of the proposal on these assets falls into the category of being less than substantial.
35. The development would be separated from the CA by Banbury Lane, dwellings fronting that lane, and an area of open ground. Some minor intervisibility between the edge of the site and the CA is possible, but it is notable that the CA Appraisal and Management Plan does not identify any views towards the site as being important in heritage terms. That is a position with which I agree and it seems to embody the general fact that the older core of the village tends to be inward looking and concentrated along the old village lanes of North Street and Church Street. Although the appeal site can reasonably be said to be within the setting of the CA it does not feature materially in any understanding of the significance of the CA. Building houses on the land would interrupt the minimal perceived connection between the site and the CA but any harm would be at a very low level. Similarly the nearest listed buildings at Manor Farm/Manor House, have settings limited by surrounding buildings and boundaries. There would be no impact on those settings.
36. The historic development of the village is well understood and the CA appraisal marks out undesigned archaeological evidence of the earliest settlement periods. This includes the appeal site, which has retained much of its ridge and furrow feature (though by common consent the north-eastern part of the site has become degraded). The ridge and furrow is not a designated asset but it has interest and some significance in understanding the history of the settlement. I note that there are other examples in the surroundings of the village, which I visited during my site visits. However, I do not agree with the Appellant's evidence that the ridge and furrow in other locations is of equal value to that on the appeal site. My observations are that in each case the ridge and furrow is less distinct and/or less well defined, producing no significant visual impression in the glimpses possible from publicly accessible locations. It seems to me, therefore, that if any area of ridge and furrow in the immediate locality of the village is to be afforded some weight it should be that on the appeal site.
37. The Appellant has fairly pointed out that an area of ridge and furrow could be retained on the appeal site and provided with appropriate interpretation information (as requested by the County Archaeological Service). Given that such an area would be publicly accessible that is to be welcomed. However, any such area would need to be of sufficient size to be meaningful, but that is a matter which would properly be left to the reserved matters stage.
38. To sum up on this issue it is my judgement that any harm to the setting of the CA is minimal and would be at the very bottom of any scale relating to less than substantial harm as set out in the NPPF. Great weight must be given to conservation of the asset, but in this case the harm is so limited that little weight attaches to it. The loss of undesigned ridge and furrow also carries

limited weight particularly as there would be an opportunity to retain a portion of it and enhance its understanding with interpretation.

Other Matters

39. Local residents are concerned that the introduction of up to 66 houses with inevitable extra traffic would compromise highway safety. The village crossroads is adjacent to the site. I note that the access to the site has been agreed and that the Highway Authority does not object to the proposal.
40. I observed highway conditions on both of my site visits. Local roads are subject to modest levels of traffic, though there are the expected peaks. Apart from morning and evening peaks I also observed an increase in traffic associated with the local nursery and primary school. The village is subject to 30mph speed limits and it seems to me that the majority of drivers were using the road carefully, though occasional misuse is always possible. Even so I have no reason to disagree with the assessment of the expert opinions expressed that safe access can be provided in this case. It must also be recognised that it would be expected that some improvements would be carried out if development were to proceed.
41. I have had a number of comments made in relation to the capacity of the local primary school. I understand it has some vacancies at present, and judging by the signs being displayed at the time of the inquiry, is actively seeking to ensure its future roll is maintained. There is no objection from the Education Authority, and the submitted S106 obligation makes provision for appropriate contributions in the event of planning permission being granted. There is no suggestion that the school is under threat, and hence nothing to support the suggestion that the development would assist in its retention. This is not a matter which weighs either for or against the proposal.
42. Matters pertaining to affordable housing, contributions to infrastructure and services and other matters are contained within the submitted S106 Agreement. Were I to allow the appeal I am satisfied that the obligation would accord with the necessary regulations. Drainage has been agreed as a matter which could be dealt with by condition.

Planning Balance and Conclusions

43. I turn then to the planning balance. First, it is important to note the benefits of the proposed development. These can be summarised as follows:
 - The provision of market housing which would assist in addressing the identified shortfall. Medium sized sites of this nature are an important resource recognised in national policy. This is a benefit of significant weight;
 - The provision of affordable housing to meet the identified needs of South Northamptonshire. There is provision for 50% of the dwellings to be affordable. This is also a benefit of significant weight;
 - Some economic benefit associated with construction jobs, spending, council tax revenue and the like. This is of limited weight as it would apply to any development in alternative locations;

- Benefits associated with retention of ridge and furrow and the payment of contributions which assist in providing local facilities, such as provision of a local playing field. I afford these moderate weight.

44. On the other side of the balance the following matters are important:

- The appeal site does not relate satisfactorily to the urban area of Northampton or the NRDA to enable it to reasonably be regarded as addressing the objectives of the NRDA. This is a matter of substantial weight in the context of this proposal;
- The location of the site is not conducive to travel other than by private vehicle. Distance to Northampton is limited, but modes of transport are even more limited. The site is therefore not locationally acceptable. This is a matter of significant weight;
- The site is in open countryside and causes harm to the character and appearance of the area. This carries moderate weight;
- There is less than substantial harm to heritage assets, but this is of limited weight.

45. The tilted balance is engaged and the most important policies must be considered to be out of date. That does not mean that they carry no weight and nor does it mean that the lack of a deliverable 5 year housing land supply leads inevitably to the grant of planning permission. The JCS is an important part of the development plan and retains a strategic direction for development. I afford significant weight to JCS Policy R1 which sets out the strategy for rural areas and the conflict with that policy is also of significant weight. The proposed scheme patently runs counter to its objectives. There is also conflict with JCS Policies S1 and S3 which develop the strategy for development distribution and this conflict too carries significant weight. I do not accept that any support can be gleaned from JCS Policy S4 as the scheme does not serve the objectives of the NRDA. Saved policies of the Local Plan are of less weight because of their age and partial inconsistency with the NPPF any conflict with them is reduced to a limited level.

46. Taken overall it is my judgement that the benefits of the proposal are not sufficient to support the grant of planning permission. On the contrary, the site location is unacceptable for a development of this scale and type. Notwithstanding the lack of a 5 year housing land supply this would be, put simply, the wrong development in the wrong place. It would not be sustainable development. The adverse impacts identified above significantly and demonstrably outweigh the benefits and planning permission should therefore be refused.

Overall Conclusion

47. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR

