



Appeal Decision

Hearing held on 20th August 2014

by Clive Whitehouse BA(Hons) MCD MRTPI

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

Decision date: 8 September 2014

Appeal Ref: APP/K2610/A/14/2213841

Land off Fred Tuddenham Drive, Cawston, Norfolk NR10 4FE

- 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 Smiths of Honingham (Developments) Ltd against the decision of Broadland District Council.
 - The application Ref.20131212, dated 29th August 2013, was refused by notice dated 3rd December 2013.
 - The development proposed is residential development.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (1) Whether the calculation of a five-year housing land supply should be based on the Broadland rural policy area or the whole of the Broadland District area, including that part within the Norwich Policy Area (NPA).
 - (2) The weight to be attached to adopted policies for the supply of housing.
 - (3) Whether the proposal is premature pending adoption of the Site Allocations Development Plan Document.

Background

3. The appeal site consists of a roughly rectangular area of disused agricultural land, extending to about 1.1ha and located off the end of a cul-de-sac serving a small modern housing development. The application is in outline form with all matters of detail, except vehicular access, being reserved for subsequent consideration. For the purpose of the appeal, an illustrative layout has been submitted showing a layout of 14 detached dwellings.
4. Cawston is identified as a service village suitable for small scale housing growth in the amended Joint Core Strategy for Broadland, Norwich and South Norfolk adopted in 2014 (JCS). The appeal site is outside the settlement boundary for Cawston defined in the Broadland District Local Plan, adopted in 2006. The Council has identified another site off Gayford Road in Cawston for up to 20

dwellings, and that site is being progressed as a preferred option in the Site Allocations Development Plan Document (DPD).

5. The Council accepts that the appeal site is in a sustainable location and that it does not raise significant landscape impact issues.

Five Year Housing Land Supply

6. The National Planning Policy Framework (NPPF) requires local planning authorities to assess housing needs in the housing market area, and to identify deliverable sites sufficient to provide five years worth of housing against that requirement. Paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Paragraph 14 advises that where the development plan is out-of-date, planning permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
7. The parties agree that the Council cannot demonstrate a five-year supply of housing land over the whole of the Broadland District. Surprisingly, neither party at the hearing was able to state what the exact housing supply figure is for the district as a whole. The reason for this is that the JCS divides Broadland district into two distinct housing policy areas, and district wide figures are not normally published.
8. Cawston is in the Broadland Rural Policy Area, whereas the parts of Broadland close to the City of Norwich are included in the Norwich Policy Area (NPA) for housing policy purposes (the NPA is composed of Norwich City and parts of both Broadland and South Norfolk districts). That has been a long-standing policy distinction for over twenty years, and it equates closely to the housing market area assessments on which the JCS is based.
9. The most recent monitoring figures show that the Broadland Rural Policy Area has about 10 years supply of deliverable housing sites, whereas the Norwich Policy Area has less than a five-year supply. At the hearing, the Council stated that the surplus of housing sites in the rural part of the district is not considered as contributing to the deficit around Norwich. The current Broadland site allocations DPD is focussed primarily on addressing the acknowledged shortfall of housing sites close to Norwich.
10. The appellant argues that the requirement in paragraph 49 of the NPPF relates to the local authority area, and that where the district as a whole cannot demonstrate a five year supply, the saved housing policies of the adopted local plan are out-of-date. In those circumstances it is contended that the presumption in favour of sustainable development in the NPPF is engaged.
11. I note that two recent appeal decisions concerning housing sites in the Broadland part of the NPA have been determined on the basis of the lack of a five year supply within that policy area. I also note that paragraph 47 of the NPPF refers expressly to the assessment of housing needs in "the housing market area". I conclude that there is a well established policy basis for the rural part of Broadland district to be considered as a distinct housing market area requiring a separate housing land supply assessment.

12. I conclude on the first main issue that the Broadland rural policy area is the appropriate area on which to assess the supply of deliverable housing land and that the current supply in that area is considerably in excess of the five year requirement.

Broadland District Local Plan Policies

13. The local plan was adopted in 2006 and its saved policies form part of the development plan for the area until replaced by the local plan documents currently under preparation. The 2006 plan defines a closely drawn settlement limit for Cawston, and policy GS1 states that development proposals will not be permitted outside these limits (subject to certain provisos not relevant to this case). This approach is supported by policy HOU1, which states that estate development (ie. more than 6 dwellings) on unallocated sites outside settlement limits will not be permitted.
14. Saved policies GS1 and HOU1 have the effect of regulating the supply of housing in Cawston. In the situation where there is more than a five year supply in the rural area, and where the emerging local plan documents have not yet reached the submission stage, those policies continue in force until replaced. I conclude on the second main issue that significant weight continues to be attached to saved policies GS1 and HOU1 at this stage, and that the appeal proposal conflicts with those policies.

Prematurity

15. The Council contends that approval of the appeal proposal would be premature in that it would pre-determine the location of housing in the village in advance of the adoption of the Site Allocations DPD. The Council published the proposed submission version of the site allocations plan in April 2014, including the preferred housing site of Gayford Road. Consultation on that document has taken place and the results are being considered by the Council with a view to submitting the plan for examination in late September 2014.
16. National Planning Practice Guidance advises that the refusal of planning permission on the grounds of prematurity will seldom be justified where the draft local plan has yet to be submitted for examination. I conclude on the third main issue that dismissal on the grounds of prematurity is not justified at this stage.

Other Matters

17. The appellant contends that, even if the appeal site is not in accordance with adopted or emerging plans, it can be regarded as an acceptable and sustainable windfall site, in addition to the proposed Gayford Road allocation. Joint Core Strategy policy 15 states that in service villages development may take place on suitable exception and windfall sites. Cawston is one of the largest service villages with a good range of local services, and it is contended that it would be a suitable location for more than the proposed allocation of up to 20 houses.
18. In my view that argument might hold true if, for instance, the site were on previously developed land within the settlement. However, the appeal site is outside the defined settlement boundary and in conflict with saved local plan policies. I conclude that it is not a suitable windfall site.

19. Several residents of Fred Tuddenham Drive object on the grounds that the access road is too narrow and congested with parked cars to serve further housing development. The access has a shared vehicular/pedestrian surface, which the County Highways Authority considers to have a maximum capacity of 25 dwellings. There are 11 dwellings at present, which accounts for the illustrative layout for 14 dwellings on the appeal site. There were many cars parked on the drive at the time of my inspection, although the appellant expressed the view that the parking situation at that time was not typical, based on his recent visits. The Highways Authority has no objection to the scheme, and the Council's reasons for refusal do not include the access issue. At the hearing the appellant explained that he would be prepared to accept a planning condition requiring a temporary construction access to be formed on nearby land under the company's control in order to minimise disturbance to existing residents, in the event of planning permission being granted. Having regard to that possibility, I share the Council's opinion that the existing access is adequate to serve the proposed development.
20. A representative of a large wine-bottling plant in the village objects to more houses being built near the plant. The plant employs 120 people and operates night shifts. I understand that existing residents have complained about noise and traffic, and the company is concerned that further nearby residents may add to the number of complaints and result in restrictions on their operations to the point where the company might have to look for other premises. I do not have details of the complaints about the operation of the plant or of the options that are open to the company to mitigate the causes of complaints. It would certainly be a serious matter for many people if the bottling plant were forced to re-locate but, on the limited information available, I am not able to reach a conclusion on the effect that a further 14 houses would have on the existing situation.
21. The appellant has submitted a signed Unilateral Undertaking dated 20th August 2014 pursuant to section 106 of the 1990 Act for the purpose of the appeal. The Undertaking provides for an agreed percentage of affordable housing units on the appeal site, and for an agreed financial contribution to open space provision. The Council is not satisfied with certain affordable housing clauses, but that matter is not a main issue in the case. The matters covered in the Undertaking do not overcome the considerations that have led me to my overall conclusion, below. It is therefore not necessary for me to reach a conclusion on the disputed clauses.

Overall Conclusion

22. In the situation where the supply of housing sites in the rural area significantly exceeds the five year requirement, and against the background of the current local plan exercise, I conclude that residential development on the appeal site outside the defined settlement limits of Cawston and in conflict with adopted policies is not justified.

C Whitehouse

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ben Elvin	Planning consultant, LSR Solicitors and Planning Consultants
Sharon Smith	LSR Solicitors and Planning Consultants
John Smith	Appellant, Director of Smiths of Honingham (Developments) Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Hinchcliffe	Senior Planning Officer
John Walchester	Spatial Planning Manager

INTERESTED PERSONS:

Graham Bloomfield	Planning Consultant, Bidwells Consultants, representing the land owners of the preferred option housing site in Cawston.
Brian Schuil	Objector and vice chair of Cawston Parish Council
Mark Lansley	Director of Broadland Wineries, Cawston.

DOCUMENTS submitted at the hearing.

1. Plan showing the settlement hierarchy and Norwich Policy Area boundary in Broadland District.
2. Extract from Broadland District Local Plan 2006, showing the adopted development limit for Cawston
3. Photographs showing parked cars and goods vehicles manoeuvring in Fred Tuddenham Drive.