
Appeal Decision

Inquiry opened on 30 July 2014

Site visit made on 8 August 2014

by R J Marshall LLB DipTP MRTPI

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

Decision date: 14 November 2014

Appeal Ref: APP/H2835/A/14/2212956

Land off Hillside Close, Bozeat, Wellingborough, NN29 7LG

- 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 Manor Farm Developments Limited against the decision of the Borough Council of Wellingborough.
 - The application Ref WP/2013/0332/OM, dated 3 July 2013, was refused by notice dated 22 January 2014.
 - The development proposed is residential development, comprising of up to 36 dwellings, estate road and associated works, with all matters save for means of access reserved for subsequent approval.
 - The inquiry sat for 3 days on 30/31 July and 8 August 2014.
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Decision

1. The appeal is dismissed.

Application for costs and procedural/background matters

2. At the Inquiry an application for costs was made by Manor Farm Developments Limited against the Borough Council of Wellingborough. This application is the subject of a separate Decision.
3. Before the close of the Inquiry a Section 106 Agreement was submitted making provision for affordable housing and ecological works, and contributions towards various facilities
4. Amongst other things planning permission was refused on the grounds of harm to the living conditions of those in Hillside Close having regard to noise and pollution through traffic movements from the site and on the grounds of insufficient evidence on potential flood risks. However, these reasons for refusal were withdrawn before the start of the Inquiry. This has been taken into account in the main issue identified below.
5. After the close of the hearing I received, as agreed, a copy of Bozeat Parish Council's written observations on the appellant's additional transport evidence. This was copied for information to the 2 main parties. It has been taken into account in my decision.

Main Issue

6. The main issue in this appeal is whether or not there is a 5 year supply of deliverable housing land and if not the implications of this for the proposed development. This issue differs slightly from that given at the opening of the Inquiry in light of all I heard.

Reasons

Main issue

7. The appeal site is located just outside the Village Policy Line, defined in the Borough Council of Wellingborough Local Plan (1999 and as altered 2004) for the village of Bozeat. As such the proposed development is in the open countryside in Policy terms. In such areas saved Local Plan Policies G6 and H4 strictly limit new development and would not allow for the proposed development. Local Plan Policy G4 identifies Bozeat as a "restricted infill village". However, whilst this allows for some limited development in the village this must be within the defined Village Policy Lines which relate closely to the existing built up area. In so doing account has been taken of the growth limits for each settlement having regard, amongst other things, to the capacity of local services. Policy 10 of the North Northamptonshire Core Spatial Strategy (CSS) (2008) on the Distribution of Housing says that new housing will be focused at the 3 growth towns, with modest growth in the Smaller Towns and Rural Service Centres, limited development in the villages and restricted development in the open countryside. The proposal, which I regard as being for more than limited development, therefore fails to accord with Policies on the location of new development.
8. The appellant contends that any such Policy harm is outweighed by the absence of a 5 year housing land supply. On this I turn first to housing need. The CSS incorporates a housing requirement for the Borough based on the revoked Regional Plan for the East Midlands. As such it is founded on an out dated top down approach to such provision. However, the North Northamptonshire Interim Housing Statement (NIHS) agreed by the Joint Planning Committee in January this year sets out housing figures for the North Northamptonshire planning authorities. For Wellingborough Borough the figures indicate a need for 4,500 dwellings in the period 2011 to 2021. This figure has not been subject to independent examination and could be subject to alteration. However, the evidence before me gives me good reason to believe that it may reasonably be regarded as a cogent and up to date evidence base representing an objective assessment of the housing needs of the area. The parties are content for the NIHS figure to be used and in the absence of any alternative up to date figure I attach weight to it for the purposes of this appeal.
9. The key difference between the parties is thus on the supply of land for housing. The appellant's contention is that even looking rather over-optimistically, there is only a 3.96 year supply for the period 2014-19 and a 4.4 year supply for 2015-20. However, key in my view is the Council's initial acceptance that, even on its own figures, for the period 2014-19 there would only be a 4.73 year supply of housing land. The appellant construes this as proof of an absence of a 5 year housing land supply. The Council contest this by saying that the relevant period to look at is not 2014-19 but rather 2015-20 and that in this later period there would be a 5.2 year housing land supply.

However, this view on the appropriate period was supported by out of date guidance that, moreover, offers little support for the contention, as in one instance it does little more than refer to the need to have regard to a full 5 year period and in the other instance relates to producing housing trajectories and not specifically calculating 5 year housing land supply. My preference, regardless of the Council's previous practice, is to adopt the 2014-19 period given that the inquiry took place reasonably close to the beginning of 2014-2015 in terms of the period for assessing land supply and neither the Framework nor the PPG refer to a future, forward looking or next 5 year periods. A significant advantage in the appellant's approach is that adopting a base date of 1 April 2014 ensures that the housing land supply requirement figure is based on known completions rather than Council predictions which may not come to pass.

10. The Council now maintains that in any event it can show a 5 year land supply in the period 2015-19 as the 4.73 figure inadvertently did not include provision for C2 housing and that it is reasonable to anticipate that the shortfall would be made up by the provision of student and elderly housing. However, whether that would be so is largely speculation and no substantial evidence has been provided in support of this contention.
11. Given the above I consider that the Council has been unable to demonstrate a 5 year housing land supply even on its own figures. In arriving at this view I appreciate that based on the Council's figures the deficit is relatively small and that it may not pay to be too precise in 5 year land supply calculations. However, possible variations in the figures could as well benefit the appellant as the Council.
12. Moreover, even if I took into account the period 2015-2020 the 5.2 year supply is only marginally above the level required and if some of the Council's assumptions prove unfounded it would not take much for there to be less than a 5 year supply.
13. In support of that finding it seems to me that the Council is heavily reliant on housing on a number of large sites around Wellingborough coming forward quite quickly and together providing a substantial amount of housing in the 5 year period. The Council has relied significantly on house builder estimates though it has reduced the numbers given to account for any over-optimism. However, even so I have some reservations on the Council's figures. In one case a bridge over a railway needs to be constructed to open up the site. In another case the necessary sale of land for development to start remains dependant on a Section 106 Agreement being signed. And one site has taken many years between being allocated in a Local Plan and there being even the suggestion that an application may be made to develop it. Whilst I am advised that on the first 2 sites matters are well underway in terms of funding and the signing of the necessary agreement with the best will in the world delays can occur.
14. I am less concerned about the appellant's view that the Council may be over-optimistic on the number of houses that may be developed per annum in one locality. For, whilst anticipated house building rates per annum may exceed the national average account needs to be taken of individual circumstances. In this case I see some merit in the Council's argument that pent up demand arising from previous undersupply may allow higher house building rates in

Wellingborough to be achieved. That said the potential constraints on how soon sites may come forward for development as identified in the paragraph above remain legitimate cause for concern.

15. Thus even assessed over the period 2015-2020 I consider that there are sufficient concerns on the Council's figures for them not to have adequately demonstrated a 5 year land supply even for this period.
16. This being so, in line with the Framework, relevant Policies for the supply of housing should not be considered up to date. The Council draws a distinction between the supply of housing and the distribution of housing. It says that CSS Policies 1, 9 and 10 in seeking to concentrate development in main settlements and limit development in the countryside and villages such as Bozeat must be differentiated from Policies on the supply of housing. I disagree. These Policies, and indeed the others relied on, clearly affect housing numbers. Thus on a broad interpretation, supported by the judgment in *South Northamptonshire Council v Secretary of State and Barwood Land and Estates Ltd.*, they may therefore be regarded as Policies for the supply of housing.
17. The absence of a 5 year supply of land for housing supports the appellant's case given that the Framework seeks to boost significantly the supply of housing. Moreover, where relevant Policies on the supply of housing are out of date paragraph 14 of the Framework says that development should generally be permitted. However, the caveat to this is that this would be unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In so doing account must be taken of the presumption in favour of sustainable development which is at the heart of the Framework.
18. The Framework identifies 3 elements to sustainable development: economic, social and environmental. By providing for growth and employment in the construction phase, and potentially adding to some local expenditure, the proposed development would have some economic benefit. There would be a social benefit in terms of providing new houses in a Borough where they are needed and also with regard to the provision, through the S106 agreement, of 11 affordable houses in a village where there is a need for such housing.
19. To some extent the environmental role would be met. Notwithstanding local concerns I am satisfied from the detailed studies undertaken that there would be no harm to biodiversity. Nor, given the site's location close to existing built development, the lie of the land and hedgerow screening, would there be any harm to the character and appearance of the area.
20. However, according to the Framework the environmental role that the planning system should perform should also be to help use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. The proposed development would perform poorly in these respects for the reasons outlined below.
21. The village contains a primary school, allotments, a recreation field, a church and chapel, a public house and takeaway, a small Spar Foodmarket, a newsagent/hairdressers, a fabric store and a small doctors surgery. These would meet some day to day needs and a mobile library visits monthly. However, there would be a need to travel elsewhere to find a supermarket of any substantial size, a chemists or any of the range of other shops and

retailers found in larger settlements. There would be a need to travel outside the village to secondary school, for most jobs and for many recreational pursuits.

22. There are reasonably frequent bus services to Wellingborough and Northampton, via the nearby large village of Wollaston. However, they are unlikely to afford the same degree of flexibility in accessing shops, jobs and services as would the use of the private car. Nor do these bus services, or those of the local community transport, extend much into the evening. For all these reasons I have no doubt that most people would find it much more preferable to access services and facilities beyond the village by car. As for other modes of travel, other than by lengthier country lane routes, cycling to the village of Wollaston would be on the A509. Whilst there are no recorded accidents involving injury to cyclists on this road it is not, from all that I saw, a road likely to encourage cycling.
23. Given the above I consider it highly likely that to access many services residents of the site would make use of the private car. This view is supported by the Parish Council's reference to surveys undertaken which show 78% of villagers found the current bus service did not cater for the needs of their household and that only 0.7% of residents reported that they use the bus to travel to work.
24. Drawing together my views on this issue there is a lack of a 5 year housing land supply, relevant Policies for the supply of housing are out of date and the presumption in favour of sustainable development applies. However, the proposal is for a sizeable development and the inaccessibility, lack of services and car dependency is of such order that harm thereby arising on environmental grounds is not offset by the other elements of sustainability referred to in the Framework being met. Thus the proposal does not represent a sustainable development. The harm that would arise would significantly and demonstrably outweigh the benefits.
25. In arriving at this view I have taken into account the Council's recent grant of planning permission for 150 dwellings outside the confines of Earls Barton. However, this settlement is described in a report prepared by the Council as a Local Service Centre and as being in hierarchical terms above the village of Bozeat. This suggests that Earls Barton is a more sustainable settlement for new development and the decision does not justify the proposal before me.
26. It is concluded that there is no 5 year supply of deliverable housing land but that for the reasons given this does not justify the proposed development.

Other 3rd party concerns

27. Concerns beyond those above were raised by local residents and the Parish Council, the key ones being highway safety, living conditions of local residents and drainage. If justified they would add to the harm on unsustainability grounds identified in the main issue.
28. The highway safety concern relates to the visibility at the "T" junction between Hillside Close and St Mary's Road that would be used by those leaving the site. Visibility to the left from Hillside Close accords with that recommended in Manual for Streets (MfS) for a 30mph area whereas to the right it would not. However, a traffic survey undertaken by the appellant shows vehicle speeds

low enough for MfS standards to be met with only minor changes to the junction required.

29. A myriad of detail concerns are raised on the above survey. However, it was undertaken by a professional highway consultant and the findings have been agreed by the County Council's Senior Transport Planner. These findings are supported by the fact that the alignment of St Mary's Road and the potential for parked cars means that traffic speeds past the junction are likely to be relatively slow and drivers will be proceeding with caution. Moreover, even were traffic speeds slightly higher than recorded regard should be had to Manual for Streets 2 (MfS) which advises that visibility below recommended levels need not necessarily lead to significant problems. All that I saw suggested that would be the case here.
30. On the living conditions of local residents I see no reason why, on a site of this size it would not be possible to locate and design houses so that no harm arises to adjoining residents from over-dominance, loss of light and overlooking. Traffic from the proposed development would pass by the dwellings in Hillside Close. However, any noise and disturbance thereby arising would be no greater than that occurring in many residential roads.
31. The appeal site is on relatively high ground and there is no evidence of flooding on it. However, there has been flooding in the centre of the village which is on lower lying land. A major concern of the Parish Council and many local residents is that the proposed development would increase the risk of flooding in this area. However, the appellant has carried out a series of detailed Flood Risk Assessments (FRAs). They have been modified where necessary to take into account responses from the Environment Agency, other statutory bodies and drainage engineers appointed by the Council.
32. It is proposed that a storm water drainage system would be provided. This would discharge into a nearby watercourse, at rates equivalent to greenfield run-off, via an underground detention tank. This should ensure no additional harm through flooding downstream. The system would be designed to accommodate a 1 in 100 year storm event. There is local concern as to what would happen with overland flows should this event be exceeded. However, the latest FRA indicates that in this case flood water would be directed to open land to the east. The FRA says that as in such events water will be being collected in the underground detention tank the volume of water flowing across this land would be at levels less than is currently the case.
33. On more detailed points, notwithstanding local observations, I am satisfied from the appellant's evidence that it is possible to seek the necessary requisition of a sewer across private land. It is commonplace now to require by condition the future maintenance of Sustainable Urban Drainage Systems (SUDS) so I do not share local concerns on the future maintenance of the underground detention tank.
34. Having regard to the above I am satisfied that the proposed development, subject to conditions suggested by consultees and the Council, would not lead to unacceptable flooding elsewhere and there is no professional view to the contrary.
35. Given my findings above the other key matters raised by those locally do not add weight to the harm I have found on the main issue.

The Section 106 Agreement

36. As I minded to dismiss the appeal Regulation 122 of the Community Infrastructure Regulations (CIL), on the limitation of the use of planning obligations does not apply. It is thus unnecessary in the determination of this appeal to assess the submitted Section 106 agreement against its tests.

Overall conclusion

37. Notwithstanding lack of harm in relation to some key local concerns the harm identified on the main issue alone is decisive in this case. For the reasons given above I conclude that the appeal should be dismissed.

R J Marshall

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Crean QC	Of Counsel
He called	
Mr N Ozier BA (Hons)	Of Brian Barber Associates
MRTPI	
Mr Chapman MSc	Development Management Officer
Mr N J Onions	Of MEC Consulting Development Engineers
BSc(Hons) MCIWEM	

FOR THE APPELLANT:

Miss M Cook	Of Counsel
She called	
Mr L Wilbraham Dip TP	Of Wilbraham Associates Ltd
MRTPI	

INTERESTED PERSONS:

C Marshall	Local resident
J Burnet	Local resident
P Moth	Local resident
P Dunford	Local resident
L Small	Local resident
G Sutherland	Chair – residents association
W Green	Residents association
F Dilley	Residents association
Cllr T Partridge-Underwood	Borough Councillor
B Skittrall	Parish Council
J Green	Local resident
R Spence	Land agent
C Lord	Local resident
P Brannon	Local resident
D Ward	Local resident
Cllr Bell	Leader of Council

DOCUMENTS

- 1 Letter of notification of inquiry and those notified.
- 2 Appellant's opening submissions.
- 3 Council's supplementary proof.
- 4 Appellant's document A.
- 5 Appellant's document B.
- 6 Appellant's document C.
- 7 Appellant's document D.
- 8 Appellant's document E.
- 9 Appellant's document F.
- 10 C Lord – statement.
- 11 Proof of Evidence – Bozeat Parish Council.

- 12 SS appeal decision APP/G2815/V/12/2190175.
- 13 Bozeat Village Plan Update (Questionnaire results).
- 14 The Highways Agency – TA 22/81.
- 15 High Court Decision ref (2014) EWHC 15 (Admin).
- 16 SS appeal decision APP/M1520/A/12/2177157.
- 17 Appeal decision APP/R3325/A/12/2170082.
- 18 St Mary's Little Hillside Residence Association – statement.
- 19 G Sutherland – statement.
- 20 D Ward – statement.
- 21 F Dilley – statement.
- 22 DCLG advice note.
- 23 CLG Core Output Indicators – Update 2/2008.
- 24 P Moth – statement.
- 25 C Robinson – letter.
- 26 L J Smart – letter 22 July 2014.
- 27 A and J Furniss – letter.
- 28 C Marshall – letter.
- 29 J Green – statement.
- 30 E mail 31 July 2014 J Lougher (Bovis Homes).
- 31 High Court decision (2014) EWHC 754 (Admin).
- 32 High Court decision (2013) EWHC 3058 (Admin).
- 33 Order made by Rt. Hon. Lord Justice Sullivan (ref. C1/2013/3099).
- 34 Extract from PPG "Housing and economic land availability assessment".
- 35 CLG letter 30 March 2011 "Preparation and Monitoring of Local Plans".
- 36 E mail 9 December 2013 – A Smith to A Chapman.
- 37 Appellant's statement on 3rd party concerns on transport and flood risk.
- 38 County Council letter 6 August 2013 on contributions.
- 39 Bozeat Parish Council – suggested conditions.
- 40 Bozeat Parish Council – suggested contributions.
- 41 5 year housing land supply statement.
- 42 P Whitworth – "Bovis Homes welcomes new funding for Stanton Cross".
- 43 County cabinet report and minutes 16 July 2013.
- 44 "The Link" Summer 2014.
- 45 "Love Northamptonshire" blog 11 July 2014.
- 46 Policy Paper "Northamptonshire: Growth Deal 2014".
- 47 Extract from Wellingborough Masterplan.
- 48 Southern Water guidance note SRI/S98.
- 49 N Noeleen – letter 28 July 2014.
- 50 L Gardiner/L Knight letter 28 July 2014.
- 51 P Brannon - statement.
- 52 R N Spencer – statement.
- 53 C Lord – statement.
- 54 Cllr T Partridge-Underwood – statement.
- 55 Set of photographs re flooding.
- 56 Draft S106 Agreement.
- 57 Final S106 Agreement.
- 58 Closing submissions of Bozeat Parish Council.
- 59 Closing submissions of appellant.
- 60 Appellant's costs application.
- 61 Appellant's reply to Council response on above.