



Appeal Decision

Hearing held on 30 September and 9 December 2014

Site visit made on 10 December 2014

by Anne Napier-Derere BA(Hons) MRTPI AIEMA

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

Decision date: 3 February 2015

Appeal Ref: APP/E2530/A/14/2221098

153 Eastgate, Deeping St James, Peterborough PE6 8RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Woods (Baxter & King Ltd) against the decision of South Kesteven District Council.
 - The application Ref S13/1123/MJRF, dated 26 April 2013, was refused by notice dated 22 January 2014.
 - The development proposed is residential development (23) including associated garages and parking and associated open space.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs have been made by the appellant against the Council and by the Council against the appellant. These applications are the subject of separate Decisions.

Preliminary Matters

3. The Hearing was opened and adjourned on 30 September 2014 and resumed on 9 December 2014, after due notice had been given to the owners of the appeal site, to provide an opportunity to comment on the proposal and attend the event. Accordingly, I am satisfied that my consideration of the appeal will not cause prejudice to any material interests.
4. The originally submitted proposal was amended during the application process, to reduce the number of dwellings from 23 to 22 and make certain alterations to the design and layout of the proposed scheme. The details before me indicate that these amendments were the subject of public consultation and the Council determined the application on the basis of those revisions. I therefore intend to consider the appeal accordingly.
5. As part of the appeal process, a certified copy of a completed planning obligation was provided. This seeks to secure the transfer of the area proposed to be used for public open space to the Parish Council in lieu of any other planning obligation requirements, should the appeal be allowed and planning permission granted for the proposal.¹

¹ Unilateral undertaking, dated 23 September 2014, Page 3, (F)

Main Issues

6. The main issues in this appeal are:

- The effect of the proposal on the character of the area; and
- Whether or not the proposal makes adequate provision for infrastructure and community benefits, with particular regard to affordable housing and public open space.

Reasons

Character of area

7. The appeal site is located within a ribbon of mainly residential development that stretches south-east from the main part of the village of Deeping St James. Whilst a boundary for the settlement has not been identified, it is not a matter of contention that the frontage of the appeal site is located within the existing built up area of the settlement. From the evidence provided, Deeping St James, together with the adjacent Market Deeping, has been identified as a location suitable for new housing within the development plan. The appeal site is not allocated for development and the Council considers that only part of the site can be considered to meet the definition of 'previously developed land', given the previous use of much of the land for horticultural purposes. As such, it has been suggested that the scheme proposed for 22 dwellings would not comply with the *Local Plan for South Kesteven Site Allocation and Policies Development Plan Document 2014 (SAP) Policy H1*.
8. A significant part of the site contains an extensive area of glasshouses, or their remains, together with other structures with the site frontage accommodating two dwellings. Thus, development has clearly taken place in the past and, whilst much of it may have been for horticultural purposes, the site no longer appears as undeveloped agricultural land. Nonetheless, although the rear projecting element of the site contains extensive glasshouses, it also extends into the largely undeveloped agricultural landscape around it. The appeal scheme reflects this, as it would concentrate the built development towards the front of the site. As a result, the area of housing proposed would not materially extend the existing built form of the settlement beyond that which exists to either side of the site.
9. It is also not disputed that the removal of the existing vacant glasshouses and other structures, many of which are largely derelict, would be visually beneficial and there is nothing before me that would lead me to consider otherwise. Therefore, overall and in this particular case, having regard to the visual and physical relationship of the site with the existing pattern and extent of nearby development around it, I am satisfied that the extent of the site proposed for residential development would not result in harm to the character of the area and, as such, the proposal would not conflict with the underlying aims of SAP Policy H1.
10. In its decision to refuse permission for the scheme, the Council referred to the perceived unacceptable impact of the proposal on the character of the area, due to the scale and cramped form of the development proposed. It was clarified at the Hearing that these concerns related primarily to the proposed terrace of four dwellings that would be located towards the rear of the residential part of the site. This relatively short terrace would be of two-and-a-

- half storeys and taller than the adjacent two storey properties. However, the details before me indicate that this difference in height would be relatively limited.
11. The form and overall appearance of the terrace of dwellings would be distinct from that of its mainly detached neighbours. However, the depth and certain design details of the four houses, such as the proposed use of dormer windows, would broadly reflect those of the other dwellings within the scheme. Furthermore, the use of articulation within the front and rear elevations of the building would reduce its perceived mass to a certain extent. Given its relatively limited overall scale, its location within the site, complementary design and sympathetic siting in relation to other properties, I consider that this element of the scheme would not appear cramped or detract from the overall character and appearance of the proposal.
 12. In wider views of the proposal, this short terrace would be seen in the context of other development nearby, which would materially reduce the visual impact of this particular aspect of the scheme. In longer views, beyond those from the pocket park, the development would be largely seen from roads situated some considerable distance from the appeal site, which would significantly limit the impact of the terrace on the character of the wider landscape. Given this context and for the reasons given, I consider that the overall scale of the terrace would not be excessive in relation to the site as a whole and this aspect of the proposal would not be unduly dominant or have a detrimental impact on the nearby countryside.
 13. *South Kesteven Core Strategy 2010* (CS) Policy EN1 seeks, amongst other things, to protect and enhance local distinctiveness and the attributes of the landscape. The Council's *Landscape Character Assessment 2007* (LCA) advises that developments located around the settlement of Deeping St James should carefully consider the settlement edge. It goes on to say that fences backing onto open countryside would not be appropriate, although it indicates that areas of planting may be acceptable². The local fenland landscape is characterised by low lying land, sizeable fields, long views and open skies, with limited development beyond settlements. However, a number of trees exist within the area, on some field boundaries and to the rear of some properties along Eastgate, including some within the appeal site that are proposed to be retained. These punctuate the surrounding landscape and soften the visual impact of the existing settlement from the east.
 14. Whilst boundary fences have been specified for the rear gardens of the dwellings adjacent to the pocket park, full landscaping details of the proposal are proposed to be controlled by way of condition. As such, given the characteristics of the site and those of the surrounding area, there would appear to be a realistic potential that a suitable landscaping and planting scheme could be designed that would carefully consider the settlement edge and contribute positively to achieving an appropriate integration of the appeal proposal with the surrounding landscape setting of the site. Accordingly, I am satisfied that, in this case, the proposal would not materially conflict with the aims of CS Policy EN1 or those of the LCA.
 15. Concerns were also expressed about certain other aspects of the scheme, including the impact of the development within the streetscene and the

² LCA, paragraph 4.168

relationship of the proposal with the existing dwelling at No 149. However, having regard to the scale of development proposed, its design, the layout of the scheme and the separation distances involved, these are not compelling reasons to find against the proposal.

16. Therefore, overall and for the above reasons, I conclude that the proposal would not cause harm to the character of the area. It would be in accordance with CS Policy EN1 and the underlying aims of SAP Policy H1, where they seek to protect local character. It would also meet the aims of paragraph 17 of the National Planning Policy Framework (the Framework), to achieve high quality design and take account of the roles and character of different areas.

Infrastructure and community benefits

17. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. CS Policy H3 requires all developments of 5 or more dwellings to make appropriate provision for affordable housing within the development site. CS Policy SP4 requires new residential development to make provision for infrastructure and community benefits to meet the needs of its future residents. In this case, consultation responses received on the application identified a need for the provision of affordable housing, education and health facilities and open space requirements.
18. In respect of affordable housing, CS Policy H3 requires on-site provision of up to 35% affordable housing on a scheme of this size, having regard to the overall viability of individual development schemes. It is not a matter of dispute that there is a clear need for affordable housing within the area. No such housing is proposed as part of the appeal proposal, either on-site or by way of a financial contribution to off-site provision. The developer's financial appraisal of the scheme indicates that the provision of any affordable housing would prejudice its viability.
19. I recognise that different methods are available for assessing development viability. Nevertheless, it was confirmed at the Hearing that the Council's *Planning Obligations Supplementary Planning Document 2012* (SPD) uses a residual land value (RLV) approach. The Council's SPD is an adopted document that provides a recognised approach to implementing the development plan policy within the area. As such, I accord it significant weight. There is nothing substantive before me, including the guidance on this matter within the national Planning Practice Guidance, to suggest that an alternative approach would be more appropriate in this case. Nonetheless, it would appear that this approach was not followed.
20. I am mindful that significant costs would be likely to be incurred in the remediation of the site. For the reasons given above, the development proposed would not provide the same level of return on the rear part of the site as the remainder. Nevertheless, notwithstanding potential unknown contamination issues, the existing glasshouses and other structures are clearly visible. As such, I am not persuaded that the remediation of the site should be wholly regarded as an unforeseen abnormal development cost. Similarly, the Council's approach to the provision of affordable housing and local infrastructure requirements is clearly set out within its development plan policies and the SPD. Given these matters and having regard to the guidance

within the SPD³, I am of the view that it would be appropriate for the necessary costs associated with these matters to be reflected in the value of the land.

21. Furthermore, although the site has been previously put to some use and contains two dwellings, there is nothing before me to suggest that, in its current condition and without redevelopment or significant refurbishment, an alternative use of the site as a whole would be likely or feasible. As such, in my view, its previous use would be unlikely to support an enhancement of land value in this case. In addition, it is not a matter of contention that other factors, such as the sales prices of the completed dwellings, would be unlikely to have a significant adverse effect on the viability of the scheme.
22. Whilst evidence was submitted as part of the appeal process that attempted to use a RLV method of assessment, it was acknowledged that this was based on only limited information, which considerably reduces the weight that I have given to it. I also understand that the site was purchased some years ago, the landowners are seeking to develop it as a joint venture and a certain level of projected profit is required in order to obtain finance.
23. Concerns have also been expressed that affordable housing provision would not be appropriate on this particular site, due to its distance from the range of local services and facilities available in the village, and the more extensive ones available in Market Deeping. Whilst recognising that potential future occupiers of the proposal may choose to drive to these local facilities, it would not appear to me to be essential for them to do so, having regard to the local highway network and the distances involved. Accordingly, I am not persuaded that the location of the site provides a compelling argument against the provision of affordable housing within the scheme. Furthermore, there is nothing before me to indicate that, in terms of CS Policy H3, it would be appropriate to make an exception to the affordable housing requirement on this basis.
24. It has been suggested that the provision of the pocket park would avoid the need to provide open space elsewhere within the site and, as such, rather than an alternative to the provision of affordable housing, the park could be regarded as an element of the scheme that enhances its viability. The Council's Community Leisure Officer indicated that there was a locally identified need within the area for public open space. The Council's SPD would normally also require the provision of an equipped play area for a development of this size. However, the Council's Community Leisure Officer has indicated that, in this case, the excessive size of the park relative to the SPD requirements would negate the need for other open space or play type amenities.
25. I understand that there are particular constraints with the redevelopment of the site that have influenced the incorporation of this facility within the proposed development. Nonetheless, the area of land concerned significantly exceeds the amount identified within the SPD as generally appropriate to meet the reasonable needs of a development of this size. Moreover, there is nothing substantive before me to demonstrate that the amount and type of open space proposed has been identified by local planning policy as required in this location.
26. Overall, I am not satisfied that a pocket park of the size proposed would be necessary to make the development acceptable in planning terms, or that it

³ SPD, section 1.15 Economics of Provision

would be fairly and reasonably related to the proposal in scale and kind. As a result, it has not been demonstrated that the submitted planning obligation would meet the relevant tests of the Community Infrastructure Levy Regulations 2010 or those of paragraph 204 of the Framework. As such, it is not appropriate for me to take this element of the scheme into account in my consideration of the proposal. Consequently, it is also not necessary for me to examine the detail of the undertaking further.

27. In respect of education and health facilities, the consultation responses suggest that the identified requirement could be suitably addressed by way of financial contributions. However, in terms of existing health care provision, only limited information has been provided about existing capacity within the local area and, in relation to both education and health facilities, no specific details have been provided about the planned provision of new facilities, or improvements to existing ones, to which these sums could contribute. Therefore, on the evidence available to me, these identified contributions would also not meet the above tests. Accordingly, the absence of an appropriate mechanism to provide these contributions is not a matter that counts against the proposal.
28. Nonetheless, for the above reasons, I conclude that the development of the site without appropriate provision for affordable housing would be contrary to CS Policies SP4 and H3 and the financial evidence before me is not sufficient to adequately demonstrate that the scheme would only be viable without any form of affordable housing. As such, the scheme in its present form would cause significant harm, as it would have the real potential to materially undermine the Council's approach to the provision of affordable housing within the area. It would also not meet the aims of paragraphs 17 and 50 of the Framework, to meet the identified housing needs of an area, deliver a wide choice of high quality homes, and create mixed and balanced communities.

Other matters

29. The proposal would result in the development of 22 new dwellings, which would add to the local housing stock and the mix of residential development within the area. It would also be likely to result in some local economic benefits, both in the construction phase of the development and, given its location, in support for local services following occupation of the dwellings. The proposal would also re-use a currently vacant site that is in a poor condition. These are matters that weigh in favour of the appeal scheme and contribute towards the aim of achieving sustainable development. However, paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly.
30. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also involves seeking positive improvements in people's quality of life, including by widening the choice of high quality homes. I conclude that the benefits of the proposal and its lack of harm to the character of the area would not be sufficient to outweigh or address the harm identified in relation to the provision of affordable housing. The proposal would not, therefore, meet the overarching aims of the Framework to achieve sustainable development.
31. My attention has been drawn to the Council's officer recommendation for approval of the appeal application. Whilst I recognise that the outcome of the appeal is very likely to be disappointing to the appellant, particularly in these circumstances, this matter does not lead me to alter my findings above.

32. A number of other concerns about the proposal have been raised, including in relation to access and parking, highway capacity and safety, emergency services provision, horses, privacy, noise and disturbance, trees, flooding, drainage, ecology and lighting. Whilst I have had regard to these matters, I have found the proposal unacceptable for other reasons and, as such, it is not necessary for me to consider these issues further.

Conclusions

33. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Anne Napier-Derere

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

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|------------------------|---------------------------------------|
| Mr Darren Woods | Director, Baxter & King Ltd |
| Mr Ian Lawton | Commercial Manager, Baxter & King Ltd |
| Mr Mike Sibthorp MRTPI | Planning Consultant |
| Mr Paul Sharman | Designer |

FOR THE LOCAL PLANNING AUTHORITY:

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| Mr David Cooper | Senior Planning Officer |
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INTERESTED PERSONS:

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| Cllr Michael King MRTPI | Member of the Council's Development Control Committee |
| Cllr Jacky Smith | Vice-Chair of the Council's Development Control Committee |
| Mr Jim Blessett | Deeping St James Parish Council |
| Cllr Judy Stevens | Ward Councillor and Member of the Council's Development Control Committee |

DOCUMENTS SUBMITTED AT THE HEARING

1. Certified copy of completed unilateral undertaking
2. Local Plan for South Kesteven Site Allocation and Policies Development Plan Document 2014, Policy SAP 10
3. Policy Statement by the Council
4. Revised figures for viability appraisal prepared by Cllr King, dated 8 December 2014
5. Development Appraisals prepared for the Council by Quadrant Surveying Ltd
6. Copy of email exchange between the Council and Quadrant Surveying Ltd, dated 8 December 2014
7. The Council's rebuttal of the appellant's application for costs
8. Additional information paper for the meeting of the Council's Development Control Committee on 21 January 2014
9. The Council's application for costs
10. Copy of email exchanges between the Council and the appellant