



Appeal Decision

Site visit made on 26 January 2015

by J A Murray LLB (Hons), Dip.Plan.Env, DMS, Solicitor

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

Decision date: 9 February 2015

Appeal Ref: APP/R2520/A/14/2219593

High Street, Eagle and Swinethorpe, Lincoln, LN6 9DH

- 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 Bentley Homes Ltd against the decision of North Kesteven District Council.
 - The application Ref 13/1409/FUL, dated 2 December 2013, was refused by notice dated 6 March 2014.
 - The development proposed is the erection of 14 dwellings including affordable houses, access, roadway and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matter

2. When refusing the application, the plans considered by the Council included the proposed site plan No. RDS 10902/03 I (hereafter called Revision I). The appellant pursued this appeal on the basis of an amended drawing No. RDS 10902/03 M (hereafter called Revision M). That revision shows the proposed uncontrolled pedestrian crossing repositioned to achieve 28m pedestrian visibility. It has been considered by and is the subject of a statement from the Highway Authority (HA). A number of local residents have also commented on Revision M and the Council is content for me to determine the appeal on the basis of that plan.
3. In any event, the development shown on Revision M does not differ in substance from that for which the application was made and I am satisfied that it is appropriate for me to determine the appeal on the basis of that revised drawing.

Main Issues

4. The main issues are: (a) the effect of the proposal on highway safety; and (b) whether the proposal would constitute sustainable development.

Reasons

5. As a starting point, I must have regard to paragraph 14 of the National Planning Policy Framework (the Framework), which sets out a presumption in favour of sustainable development. For decision making, this means¹:

¹ Unless material considerations indicate otherwise - see footnote 10 in the Framework.

- “approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework, taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.”
6. Turning to the first main issue, the appeal site lies to the south of High Street, Eagle. There is currently no footway provision in the immediate vicinity of the proposed site access. Revision I, submitted with the application, indicated that the footway to the north, on the opposite side of High Street, would be extended to a crossover point, just to the east of the site access. That uncontrolled pedestrian crossing would link the extended footway to a new short section of footway, leading into the appeal site from the junction. However, the HA advised that the application should be refused because of inadequate pedestrian visibility. Speed readings had shown that the 85th percentile speed of vehicles was 26 mph travelling north and 25 mph for southbound vehicles. In accordance with the Manual for Streets (MfS), the HA maintained that those speeds necessitate forward pedestrian visibility of 32m northbound and 28m southbound, whereas only 22m and 23m respectively could be achieved in that location.
7. The appellant’s final comments in this appeal suggest that the HA miscalculated and overstated the required visibility distances, because it used dry, rather than wet weather speeds and because it failed to recognise that there would be deceleration at the site access, where there is a bend. However, those final comments also explain that, in post application discussions, the HA accepted that wet weather values should be applied, but rejected the deceleration argument. In any event, I am satisfied from my site inspection that pedestrian visibility at a crossing as shown on Revision I would be poor. Revision M was submitted to demonstrate that the required forward pedestrian visibility could be achieved by repositioning the crossing and the appeal has been pursued on the basis of that revised plan.
8. The appellant says that assurances were received from the HA that Revision M was acceptable. However, in a formal statement, the HA maintains its objection to the proposal, based on Revision M. That statement indicates that the original proposal was unacceptable because the required visibility of 28m could not be met, but that a ‘stage one safety audit’ (SA), conducted by the Lincolnshire Road Safety Partnership, also highlights problems with the proposals detailed in Revision M. Those proposals also involve altering the width and alignment of the existing carriageway and the issues highlighted by the SA are summarised below.
9. The SA suggests that the view for pedestrians when crossing at the proposed dropped crossing points is restricted due to the curve in the road, both to their east and west. It says this restricted visibility could lead to conflicts between pedestrians and vehicles within the carriageway, due to the limited view they will have of each other. However, given that there is nothing in the SA, or the

HA statement, to indicate that the MfS visibility requirements would not be met at the revised crossing location, I attach no significant weight to that particular concern.

10. The SA notes that, where the new development access is to be constructed is located on a bend. It suggests that, if a vehicle were travelling from the north, to turn right into the new development, it would have to slow down and even stop to wait to carry out the manoeuvre. Due to the curvature of the road and the reduced forward visibility, the concern is that drivers approaching from behind may not see them. It is suggested that this may lead to 'shunt type' accidents occurring. However, again there is nothing to suggest that drivers' visibility in this location does not meet MfS standards and my own observations revealed no obvious problem in this regard. In these circumstances, and given that the site access would be wide enough to enable 2 vehicles to safely pass each other, avoiding the need to queue, I see no compelling reason to be concerned about the risk of shunt type accidents.
11. However, the new footways would be only 1m wide. The road through the village is already fairly narrow and is proposed to be narrowed even more to allow the footways to be constructed. The SA therefore concludes that there is a risk of pedestrians being hit whilst using the footway, by vehicles that may be travelling close to the edge of the road, or who may have to move across to safely pass vehicles travelling in the opposite direction, especially farm vehicles. That is a significant risk, notwithstanding that the proposed footway width of 1m accords with the dimensions requested by HA officers before the SA. I acknowledge that there is no footway provision in this location at present. However, whilst there are already a few houses to the southeast of the proposed site access, from which pedestrians will walk into the village, a development of 14 dwellings would significantly add to that pedestrian traffic, increasing the risk of conflict highlighted in the SA.
12. To install the proposed footways the carriageway would be narrowed at the bend to 5.5m. My own site visit, including several passes along the road in my own car, confirmed the observation in the SA that vehicles already drive close to the centre line and even slightly across it, to negotiate the bend. If the carriageway is narrowed further, this will only exacerbate the problem, increasing the risk of vehicles colliding. Whilst again stating that the 5.5m carriageway width accords with a request from a HA officer, the appellant suggests that this could be increased. Some measurements were taken on site, and there might be scope to widen the carriageway by reducing the depth of the footway around the bell mouth. However, that is not the proposal before me and, in the absence of revised plans, I cannot be confident that an acceptable solution could be achieved.
13. Finally, the SA suggests that pedestrians are always more likely to take the shortest route to where they want to get to, whether there is a crossing point or not. In this case, crossing directly to and from the site access road across the bend to and from the northern footway, would provide the shortest route. Although the crossing shown on Revision M would only be some 35m further along High Street, it is highly likely that many pedestrians coming from the village to the appeal site, and vice versa, would elect not to walk that extra distance in the wrong direction and back again. They would simply cross in the vicinity of the junction. This may lead to conflicts between them and vehicles travelling along the High Street at a point where, on the evidence before me, I

am not persuaded that there is adequate pedestrian visibility. I am not aware of any recorded accidents in this location, but the proposal would increase pedestrian, as well as vehicular traffic. The appellant's evidence² is that the development would probably generate around 60 vehicle trips per day with some 4 – 5 trips in the peak periods and around 30 pedestrian trips per day. Despite the low flow of traffic to and from Eagle, I consider the risk of pedestrian incidents unacceptable.

14. I am not persuaded that all of the concerns raised in the SA are valid. However, having regard to points concerning the inappropriate location of the uncontrolled pedestrian crossing, the level of pedestrian visibility in the vicinity of the site access, the risks associated with the proposed footway width and the narrowing of the carriageway at the bend, I conclude on the first main issue that the proposal would be unacceptably detrimental to highway safety. It would therefore be contrary to saved Policy T4 of the North Kesteven Local Plan (LP), adopted 2007. That policy is clearly consistent with the Framework, which provides that developments should be designed to create safe layouts, which minimise conflicts between traffic and pedestrians and which have clear and legible pedestrian routes.
15. Turning to the second main issue, the Council contends that the proposal is unsustainable, when considered against policies in the LP and the Framework. Leaving aside LP Policy T4, having regard to paragraph 14 of the Framework, it is necessary to consider which other LP policies are relevant and whether they are up-to-date. Saved LP Policy H1 sets out how the various areas of the district will contribute to the supply of housing land and indicates that residential development will only be permitted if specified criteria are met. The appeal proposal does not meet those criteria, but the Council accepts that Policy H1 is out of date. This is because the Council cannot demonstrate that it has a 5 year supply of deliverable housing land. Indeed, the 2013 Update to the Strategic Housing Land Assessment (SHLAA) identifies only a 3.1 year supply for the district. Paragraph 49 of the Framework makes it clear that "relevant policies for the supply of housing land" should not be considered up-to-date if the existence of a 5 year housing land supply cannot be demonstrated.
16. Nevertheless, the Council relies on saved LP Policy C2, which lays down criteria for assessing development proposal in the countryside, including housing schemes. One of those criteria is that the proposal should not attract or generate a large number of journeys and it should be located to provide opportunities for access by public transport, walking or cycling. The Council contends that the appeal scheme does not satisfy that criterion. However, another criterion in Policy C2 is that it must be shown that the development cannot be located within or adjacent to a settlement. Whilst the appeal site is adjacent to a settlement anyway, Policy C2 clearly impacts on the distribution and location of housing. In a predominantly rural district such as this, restricting development otherwise than in or adjacent to a settlement is likely to have an impact on housing numbers. On this basis, I conclude that LP Policy C2 is a relevant policy for the supply of housing land and, given the lack of a 5 year housing land supply, it is out of date.

² From the Trip Rate Information Computer System.

17. Although, neither Policy C2 nor its supporting justification specifically refers to the locational strategy set out in the LP, the Council says Policy C2 is underpinned by that strategy. It further contends that the locational strategy still conforms to provisions in the Framework, which seek to promote the vitality of main urban areas, actively manage patterns of growth and preserve the character of the countryside. The locational strategy in the LP defines settlements as First Tier, Second Tier and Third Tier. Eagle is categorised as a Third Tier settlement and such settlements are considered unsuitable locations for new large scale housing development, given the limited range of services available, though small scale infill development of up to 3 houses may be considered in certain circumstances. Again however, such an approach clearly has an impact on and is relevant to the supply of housing and, given the significant undersupply, I am satisfied that the appeal should be considered primarily in the light of the Framework provisions and the presumption in favour of sustainable development, rather than the LP locational strategy.
18. In determining whether the appeal scheme represents sustainable development, it is necessary to consider, the 3 dimensions outlined in paragraph 7 of the Framework. These are the economic, social and environmental roles of sustainable development, which must be considered in the round.
19. In terms of the economic dimension, a housing development would bring economic benefits, both in the short term during the construction phase, and in the longer term, as a population increase would benefit local businesses. There is a limited range of services and businesses in the village, including a Post Office/shop, Public House, primary school, village hall, church and playing fields. There is a landscape/grounds maintenance contractors business and a bus service. There is no specific or detailed evidence of the extent to which the viability of any of these could depend on the appeal scheme. However, the Post Office/shop would be likely to benefit. The appellant's statement referred to the existence of the pub, whilst local residents' representations indicated that it had closed in March 2014. By the time of my site visit the pub, somewhat ironically called 'The Struggler', was open again. The proposed development would be likely to provide some additional support for that facility.
20. Some local residents say the primary school is at full capacity. However, I have seen no formal confirmation of that from the school or the Education Authority. I would expect capacity issues to prompt representations from the Education Authority, but the application attracted no comment from its Education Contributions section. On the face of things, the proposal could help to bolster the school's position. I have no information regarding the viability of the bus service, but again, the appeal scheme could provide some additional support for its continuation.
21. The Framework stresses the importance of sufficient land being available at the right time and in the right place. Clearly, this district has a pressing need for more housing now. I have noted the extent of the undersupply and the SHLAA says:
- "Land supply has been constrained in North Kesteven for a number of years due to restrictive policies informed by an over-supply of housing measured

against the previous Structure Plan and Regional Plan targets...There are no remaining uncommitted housing allocations in North Kesteven.

...

The CL-JPU³ fully recognises that there is a need to allocate more land in Central Lincolnshire, to make up the supply for a minimum of 15 years, and are working towards preparing a Core Strategy (including strategic sites allocation) as a priority.”

22. Provision for housing through a new Local Plan is some way off. Indeed, it is notable that, having been submitted for examination by an Inspector, the Draft Core Strategy, published in 2013, was withdrawn because of concerns raised by the Inspector over the ability of the draft plan to address the current undersupply of housing land. I shall return to the question of private car usage, but whether this site is in the right place must be seen against the background of a pressing need for housing and the requirement in paragraph 47 of the Framework to boost significantly the supply. In this context, there is some force in the appellant’s argument that focussing all new development in towns and local service centres is neither feasible nor sustainable. The proposal would provide a modest boost to the supply of housing.
23. I note the view of the Parish Council and some residents that Eagle does not need anymore affordable housing. However, the Council does not challenge the appellant’s statement that, in addition to the general need for housing, a Housing Needs Survey undertaken within Eagle and neighbouring parishes identified a requirement for 15 affordable homes. The proposal is for marginally more than 35% of the 14 dwellings to be provided as affordable units and this would represent a valuable contribution to that identified local need. The provision of affordable, as well as market housing is relevant to the social and economic dimensions of sustainable development. Similarly, the potential for the development to support local facilities, businesses and services is a positive factor in the context of both those dimensions.
24. Turning to the environmental role of sustainable development, the site is within the countryside, but adjacent to the settlement curtilage and this disused paddock has no particular landscape merit. Furthermore, given: (i) the site’s relationship with housing to the west, north and northeast; (ii) the belt of trees on the land known as ‘Pinfold’, between the site and High Street/Swinderby Road; and (iii) the existing hedge along the southern boundary, the proposed development would not appear as a harmful intrusion into the countryside. The Council considers that it would not harm the visual amenity of the area and I see no reason to take a different view. Similarly, whilst I note some neighbours’ concerns about the impact on wildlife, an ecology report submitted with the application identified no notified species on the site and there has been no objection from English Nature or the Lincolnshire Wildlife Trust.
25. Some residents and the Parish Council highlight concerns relating to foul and surface water drainage. However, no objections have been received from Anglian Water, the Upper Witham Drainage Board or the Environment Agency.

³ Central Lincolnshire Joint Planning Unit.

26. The environmental impact of the proposal relates mainly to the likely level of private car use. The village does benefit from a bus service, so there are some opportunities for access by public transport. However, notwithstanding the potential to connect with rail services at Swinderby, the timing and frequency of the bus service is such that it is unlikely be used on a routine basis to get to work, secondary schools etc. In these circumstances, and given the limited facilities in the village, occupiers of the appeal scheme would be largely dependant on the private car. Nevertheless, the village is currently able to cater for limited convenience shopping needs, whilst Lincoln City Centre is some 8 miles away by road and North Hykeham is about 5 miles away and offers facilities such as an ASDA superstore. In these circumstances, routine car journeys need only be relatively short, in terms of a rural district.
27. To conclude on the second main issue, taking the 3 dimensions of sustainable development in the round, for all the reasons given, the proposal would constitute sustainable development.

Overall conclusion

28. Notwithstanding my favourable conclusion on the second main issue, my finding on the first issue that the appeal scheme would be unacceptably detrimental to highway safety gives rise to conflict with a development plan policy, which is consistent with the Framework and therefore up-to-date. The relevant policies for the supply of housing are out of date and the development would on balance be sustainable when considering the economic, social and environmental dimensions in the round. However, the adverse impact on highway safety significantly and demonstrably outweighs the benefits, including the contribution to the supply of market and affordable housing and the likely support for local services and facilities. Having regard to my conclusions and all other matters raised, the appeal should therefore be dismissed.

J A Murray

INSPECTOR