



Appeal Decision

Site visit made on 16 March 2015

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 19 May 2015

Appeal Ref: APP/A2470/A/14/2227672

Land to the rear of North Brook Close, Greetham, Rutland LE15 7SD

- 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 Alison Lea of Larkfleet Homes against the decision of Rutland County Council.
 - The application Ref 2013/1042/FUL, dated 25 November 2013, was refused by notice dated 8 July 2014.
 - The development proposed is construction of 19 residential dwellings, including garages and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 19 residential dwellings including garages and associated infrastructure on land to the rear of North Brook Close, Greetham, Rutland LE15 7SD in accordance with the terms of the application, Ref 2013/1042/FUL, dated 25 November 2013, subject to the conditions in the schedule at the end of this decision.

Procedural matters

2. Since the application was determined by the Council the Site Allocations and Policies Development Plan Document (SAPDPD) has been adopted. Its policies have replaced the saved policies of the Rutland Local Plan referred to in the Council's reasons for refusal. I have accordingly dealt with the appeal on this basis.
3. A section 106 agreement was submitted by the appellant after the date of the site visit. The Council was invited to comment on the agreement. On 5 April 2015, Regulation 123(3) of the Community Infrastructure Levy Regulations also came into force. It permits only limited pooled contributions towards infrastructure that could be funded by a Community Infrastructure Levy. The Council was invited to comment on the agreement and the Regulation. The appellant was given the opportunity to comments on the Council's response regarding the Regulation. I have taken the comments received into account in coming to my decision.
4. The written ministerial statement of 18 December 2014, made after the appeal was lodged, requires that sustainable drainage is provided for developments of the size proposed. The Council and appellant were invited to comment on this matter and the Inspectorate's model condition for providing such a system. The comments received have been taken into account in the writing of this decision.

Application for costs

5. An application for costs was made by Alison Lea of Larkfleet Homes against Rutland County Council. This application will be the subject of a separate Decision.

Main Issues

6. The main issues in this appeal are;
 - the effect of the density, layout and design of the proposed development on the character and appearance of the area; and,
 - the effect of the proposed development on highway safety; and,
 - the effect of the proposed development on local infrastructure, services and affordable housing;

Reasons

7. The appeal site is a green field located in the village of Greetham. It forms the vast majority of a slightly larger site identified for residential development by policy SP2 of the Site Allocations and Policies Development Plan Document (SAPDPD). The site in question, H4, has been identified as providing 19 dwellings. The development of the appeal site for housing is therefore acceptable in principle.

Character and appearance

8. In order to make efficient use of land whilst respecting the character of villages, policy CS10 of the Rutland Core Strategy Development Plan Document (RCSDPD) expects new development in villages to achieve a density of 30 dwellings per hectare (dph). However, owing to the appeal site being slightly smaller than the 0.62 ha site allocated by the SAPDPD the proposed scheme would be developed at 38 dph. The density of the proposed development therefore would be contrary to policy CS10 of the RCSDPD. The question which consequently arises is whether this would result in harm to the character and appearance of the area? It is to this matter that I now turn.
9. Greetham is characterised by linear development along Main Street (B668), Great Lane and Church Lane, with some development in depth along the B668. The appeal site is located towards the western edge of the village at the end of Northbrook Close, a short residential cul-de-sac. As a consequence, the new houses proposed on it would not form part of the street scene of Main Street, but instead would be seen in the context of the Close. The Close is characterised almost exclusively by regularly spaced semi-detached houses. At 37dph its density is almost identical to that of the proposed scheme on the appeal site. In views along the proposed extension of the Close onto the appeal site this pattern of development would continue. The two short terraces proposed as part of the scheme would be at a slightly higher density. However, they would be hidden from view at either end of the turning head at the far end of the site.
10. Owing to the absence of public rights of way to the north, and the extensive mature screen of trees that exists along the northern and eastern site boundaries, the proposed development would not be readily visible in views of the village from the surrounding countryside. This landscaping would also soften what would otherwise be a hard edge to this residential development scheme. For the site specific reasons given, although the proposed scheme

would be at a higher density than that sought by the RCSDPD, it would not result in a pattern of development that would harm the character and appearance of the immediate area or the village. As the proposed houses would reflect the general proportions of dwellings on the Close, and incorporate porches and bay windows, they would complement the form and appearance of existing development.

11. The National Planning Policy Framework (the Framework) is an important material consideration. Paragraph 58 advises that planning decisions should aim to ensure that developments optimise the potential of a site to accommodate development whilst, amongst other matters, responding to local character and establishing a strong sense of place. In my view the proposal achieves this and would complement the pattern of development in the area. Therefore whilst the proposal would be contrary to policy CS10 of the RCSDPD it would not cause harm and would comply with policy CS19 of the RCSDPD and paragraph 58 of the Framework. Policy CS19 seeks the protection of the character and appearance of a locality through high quality design that respects local design features.

Highway safety

12. Two parking spaces would be provided per dwelling. For those houses without garages the spaces would be provided in communal rows with the spaces for each dwelling arranged by the side of the other. In relation to the houses on plots 4, 5 and 6, the two spaces for each house would be arranged in tandem. Such an arrangement could be inconvenient if the car parked to the rear had to be moved in order to allow the other vehicle to be driven away. However, with the low speed manoeuvring involved it would not harm highway safety. The proposed development would therefore comply with policy CS19 of the Core Strategy and policy SP15 of the SAPDP which respectively seek good design and, amongst other matters, safe access and adequate parking.

Local infrastructure and services

13. Policy CS8 of the Rutland Core Strategy Development Plan Document (RCSDPD) advises that developer contributions will be sought to ensure that new development meets the reasonable costs of providing infrastructure requirements to mitigate the impacts of new development. The supplementary planning document 'Planning and Developer Contributions' (SPD), to which I have had due regard, sets out the Council's approach. On this basis the Council seeks a section 106 agreement to secure contributions towards recreation, sport and leisure, the library service, museum service, health care, highway improvements, waste and recycling and the police service. The Council also seeks to secure the provision of affordable housing through this mechanism. The submitted section 106 agreement has been properly completed and secures the contributions sought, but makes no provision for affordable housing. The view of the appellant is that this matter can be dealt with by condition. I have dealt with the issue of affordable housing as a separate matter below.
14. The provisions sought have been assessed having regard to the tests in paragraph 204 of the Framework and the requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended).
15. In terms of recreation, sport and leisure, local provision quantitatively is sufficient to meet demand. However, an additional 19 households would

- increase the use of existing facilities. As a result, a contribution is necessary to improve the quality of facilities.
16. The proposed development would increase demands on the Market Overton Doctor's Practice. The building is not large enough to cater for the additional patients that it has been calculated would live in the area as a result of planned new housing development including the appeal site. Similarly, the police service delivers its service locally from premises at Oakham. This facility is at capacity and the new development would generate a need for additional space, equipment, information handling and communications. A financial contribution is therefore necessary to mitigate the effect of the development by expanding the Doctor's Surgery and police service provision.
 17. The high speed of traffic entering the village from the west has identified the need for a speed indicator device and a 20mph traffic regulation order to reduce vehicle speeds to a safe level. Occupiers of the proposed development would add to existing traffic in the village and increase pedestrian footfall, thereby increasing the likelihood of such highway safety issues resulting in harm. In the interests of highway safety, funding is therefore required towards the provision of these improvements.
 18. In relation to civic waste and recycling, the evidence is that at the start of 2013 the Cottesmore Civic Amenity site was often operating at capacity. As a consequence, in order to address the effect of future residents of the proposed development increasing the use of this facility a contribution is necessary towards its enlargement.
 19. The present amount of library floor space is almost half the recommended level. A contribution is therefore sought towards the mobile library which serves Greetham to address the effects of the proposed development on this service. The museum service's archival stores are full and needs to be expanded to meet the demands placed upon it by an increase in the population of the County. The proposed development would increase this demand. Lastly, a monitoring fee is sought. However, as monitoring for the most part is a local planning authority function this fee is not necessary to make the development acceptable.
 20. In relation to all the areas of infrastructure there is evidence that existing service provision is either at capacity, failing to meet current demand, or improvements are needed. Contributions are therefore necessary to mitigate the effects of the development and make it acceptable in planning terms. The contributions are calculated based upon the additional demands the development is likely to generate and the cost of providing the infrastructure for the additional services or improvements necessary. The sums sought therefore are reasonably related in scale and kind to the proposed development. In relation to all these matters it is also clear that the sums sought would be spent on an identified programme of local infrastructure provision. In several instances such provision will be several miles away. However, I am satisfied that this constitutes local provision as it reflects the rural context of Greetham and the role of other larger settlements in the County. As a consequence, all the contributions sought, other than in relation to the monitoring fee, satisfy the tests in the Framework and accord with Regulation 122.
 21. Since the date of the site visit Regulation 123(3) has come into force. It prevents the pooling of more than 5 planning obligations made since 6 April

2010 towards a specific infrastructure project, or particular type of infrastructure. The Council states that only one development has made contributions towards infrastructure in the area during this time. This has not been challenged by the appellant. On the basis of the available evidence, I therefore find that the contributions sought comply with Regulation 123(3).

22. Reference has been made to Planning Practice Guidance which advises that tariff style contributions should not be sought towards pooled funding pots intended to fund general infrastructure in the wider area. However, this is guidance and the proposal complies with the statutory test. In my judgement, this guidance does not outweigh the clear position of the development plan on this topic and the evident difficulty local services would have in delivering services if the effect of the proposed development was not mitigated.
23. For all of these reasons, I have therefore taken into account all of the provisions of the submitted section 106 agreement other than in relation to the monitoring fee.

Affordable housing

24. With regards to affordable housing, there is a shortage in the County and in accordance with policy CS11 of the RCSDPD the proposed development needs to make provision for such housing. It is the Council's normal practice supported by its supplementary planning documents to seek a section 106 agreement to secure provision. The Council advocates this approach because of the greater certainty and detail it provides. It also prefers it because a mechanism could be included to reassess the scheme's viability if it was not delivered within two years. Reference is also made to recently announced Government changes to leases for shared ownership properties, and the ability of such an agreement to provide buy back protection for such properties.
25. However, paragraph 203 of the Framework advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. In relation to affordable housing, the Inspectorate has published a model condition on the Planning Portal. On the basis of the amendments to this condition suggested by the Council, and given that only one affordable dwelling would be in shared ownership, I am satisfied that adequate affordable housing could be provided on site, secured by condition, without an unacceptable impact on retention.

Conditions

26. For the avoidance of doubt and in the interests of proper planning, otherwise than as set out in this decision and conditions, the development needs to be carried out in accordance with the approved plans. In order to ensure that the development complements its surroundings, further details on materials and landscaping are needed. To ensure that the planting becomes well established it also needs to be well maintained. To address the need for affordable housing, provision needs to be made on site.
27. As a risk of ground contamination has been identified a site investigation and any necessary remediation needs to be carried out. In order to prevent water run off from a development of this size increasing the risk of flooding elsewhere, in accordance with the written ministerial statement of 18 December 2014, provision needs to be made for the sustainable drainage of surface water.

28. The appeal site lies on the edge of the historic settlement core of Greetham. As a result, there is a realistic possibility that archaeological remains will be encountered. A site investigation is therefore necessary. In the interests of highway safety, bound material needs to be used on the vehicular access to each house and surface water from the driveway prevented from draining onto the highway. For the same reason, parking areas need to be laid out and carriageways and footways laid to at least base course level prior to first occupation of each house before final surfacing.
29. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Planning Practice Guidance.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed.

Ian Radcliffe

Inspector

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1: 1250 Location Plan, PL01 Rev C, 2427b/L00/DS, 2224/L00/DS, 2306/L00/DS, 2308/L00/DS, 2309/L00/DS, 2323/L00/DS, 2324/L00/DS, L00/GAR/01, L00/GAR/03, L00/GAR/04
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These works shall be carried out as approved and the hard landscaping works shall be implemented in accordance with a timetable agreed as part of the submitted details.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 6) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National

Planning Policy Framework, or any future guidance that replaces it. The scheme will be in accordance with the approved plan PL01 Revision C and shall consist of three affordable rented properties and one shared ownership property, unless otherwise approved in writing by the Local Planning Authority. The scheme shall include:

- i. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing. No more than six market properties shall be occupied until there has been a material commencement on at least three of the affordable housing properties. No more than twelve of the market properties shall be occupied before the affordable housing is completed, transferred to a registered provider of social housing and ready for occupation;
 - ii. the arrangements for the transfer of the affordable housing to a named registered provider of affordable housing, including the timing of the transfer;
 - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and,
 - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 7) No development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the local planning authority:
- (a) A site investigation scheme (based on the recommendations within the 'Phase 1 Site Appraisal' submitted with the application), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (b) The results of the site investigation and detailed risk assessment referred to in (a) and, based on these, an options appraisal and remediation strategy, giving full details of the remediation measures required, and how they are to be undertaken.
 - (c) A verification plan, providing details of the data that will be collected in order to demonstrate that the works set out in any remediation strategy in (b) are complete, and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action.
- Development shall be carried out in accordance with the approved details.
- 8) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until details of a remediation strategy detailing how this unsuspected contamination shall be dealt with, have been submitted to and approved in writing by the local planning authority. Remediation shall be carried out in accordance with the approved details.
- 9) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that

have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Planning Practice Guidance (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and,
 - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime
- 10) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
 - 11) No unbound material shall be used in the surface treatment of the vehicular accesses for each new dwelling within 5m of the highway boundary. The construction details used shall be porous.
 - 12) No surface water from the access drive of any dwelling shall discharge onto the public highway.
 - 13) The carriageway of the road shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until a final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within 12 months (or 3 months in the case of a shared surface road or a mews) from the occupation of the dwelling.
 - 14) No dwelling to be occupied until parking has been provided in accordance with PL-01 Rev C and the parking spaces shall thereafter be kept available for the parking of vehicles at all times.