



Appeal Decision

Site visit made on 5 November 2015

by Tom Cannon BA DIP TP MRTPI

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

Decision date: 02/02/2016

Appeal Ref: APP/N2535/W/15/3133902
40 Lodge Lane, Nettleham, Lincoln LN2 2RS

- 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 Mr Dennis Tate against the decision of West Lindsey District Council.
 - The application Ref 132116, dated 4 November 2014, was refused by notice dated 24 April 2015.
 - The development proposed is residential development consisting of 10 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with all matters reserved apart from access and layout. I have determined the appeal on this basis.
3. The High Court's judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015, which confirmed that the policies in the Written Ministerial Statement (WMS) dated 24 November 2014 must not be treated as a material consideration in development management was handed down after the application subject to this appeal was determined. Both main parties have been given the opportunity to comment on this judgement.
4. The officer report referred to a planning application on the adjacent land. Following the site visit, it was confirmed by the Council that this application had been refused and an appeal submitted Ref: *APP/N2535/W/15/3129061*. This appeal decision was issued on 17 December 2015. The main parties have both commented on this decision.

Main Issue

5. The main issue is whether or not the proposal would provide a suitable site for housing, having regard to the principles of sustainable development.

Policy context

6. For the purposes of this appeal, the development plan comprises the saved policies of the *West Lindsey Local Plan First Review 2006* (LPR) adopted in 2006. Although work is progressing on the *Emerging Preliminary Draft Central Lincolnshire Local Plan* (ELP), given its relatively early stage of preparation, I have only afforded its relevant policies limited weight. In this respect, I am
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- also mindful that the Council did not rely on ELP policies in its reason for refusal or officer report.
7. Nettleham is classified at saved policy STRAT 3 of the LPR as a primary rural settlement, and is defined as a key service centre which meets most of its resident's day to day needs, and those of villages in its rural hinterland. As the appeal site is situated in the open countryside outside the settlement limits, saved policy STRAT 12 of the LPR therefore applies. In such locations, STRAT 12 directs that planning permission will not be granted for development proposals except for certain defined uses, none of which are relevant to this particular case. Therefore this policy is broadly consistent with one of the core planning principles of the *National Planning Policy Framework* (the Framework) to recognise the intrinsic character and beauty of the countryside.
 8. Policy STRAT 1, amongst other things, seeks that development should provide satisfactory access to public transport, a reduction in the number and length of car journeys, and the protection of the character and appearance of the countryside.
 9. A Neighbourhood Plan for Nettleham has been prepared and the Examiner's report on it has recently been published. The report recommends certain minor modifications to the wording of emerging policies H1 and D7 referred to in the Council's reason for refusal. In essence, policy H1 states that the '*primary focus*' of new residential development in the plan area will be within four allocated housing sites adjacent to the settlement. These sites are not on the southern side of the village and do not include the appeal site. The provision of 10 dwellings on land at 40 Lodge Lane would therefore be contrary to the aims of policy H1 of the emerging Nettleham Neighbourhood Plan (ENP), which seeks to focus development on allocated sites elsewhere in the village.
 10. Policy D7 of the ENP refers to residential development in the open countryside. It effectively seeks to resist new residential development unless it is adjacent to the existing continuous built form of the settlement, or on principal access roads into the village where proposals would not extend the linear format of the settlement.
 11. The appeal site is currently separated from the southern edge of the settlement by an open field. I recognise that the adjoining land is allocated for employment use in the LPR and benefits from planning permission for light industrial and office use. A recent appeal (Ref: APP/N2535/W/15/3129061) has also been allowed for a mixed residential and employment development on this site. However, as neither of these permissions has been implemented, the appeal site cannot be considered to be adjacent to the '*existing continuous built form of the settlement*' and would therefore conflict with policy D7 of the ENP. Moreover, other than the applicant's bungalow and the club house and associated works for Lincoln Rugby Club, the land to the south and west of the site principally comprises of open agricultural fields, paddocks and sports pitches. Consequently, the provision of 10 new dwellings on this land which is located on one of the main access roads into the village would clearly extend the linear format of the settlement out into the open countryside to the south of the existing settlement. As such, the proposal would conflict with the overall objectives of policy D7 of the ENP which seeks to protect the countryside and to concentrate new development within or adjacent to the existing village.

12. I am mindful that the officer report also refers to the development being contrary to policy H3 of the ENP as it would fail to make provision for older people. However, the submitted layout plan indicates that the development would introduce a variety of different property types. Such details could be secured at reserved matters stage.
13. The ENP is at an advanced stage of preparation. Subject to certain changes, it has been found to be consistent with the Framework and meets all the legal requirements. Although a referendum must still be held for it to be adopted, it appears, from the evidence before me to have support of the majority of the local community. It is anticipated that it will be submitted to a public referendum in January 2016, with the plan likely to be formally made in March 2016. Given its stage of preparation, I therefore attach a fair degree of weight to the ENP and its policies.

Housing land supply

14. The Framework sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. The Council initially accepted that they could not demonstrate a deliverable high year housing land supply. However, following the submission of this appeal the Council, along with the adjoining authorities of North Kesteven, West Lindsey and the City of Lincoln, has published a joint *Central Lincolnshire Five Year Land Supply Report (CL5YLSR)*. This document indicates that for the purposes of calculating housing land supply, the LPR and the other adopted development plans in Central Lincolnshire are predominantly outdated.
15. Therefore, both the housing requirement and five year housing land supply in the CL5YLSR are based on the figures in the emerging ELP. The CL5YLSR indicates that the central Lincolnshire authorities can now demonstrate a 5.37 year supply of housing land.
16. The appellant has queried this approach, given the stage of preparation of the ELP, which I understand has only recently been published for consultation, and the subsequent over reliance in the five year housing land supply calculations on allocations in the ELP. In this respect, I am mindful of paragraph 216 of the Framework and advice in the *Planning Practice Guidance (PPG)* that sites in an emerging local plan can be considered as deliverable in the context of paragraph 47 of the Framework.
17. Nevertheless, whilst I have been provided with a list of all such sites, due to its current status, and potential for unresolved objections to numerous sites which account for this total, it is unclear that each individual potential allocation is deliverable. This is of particular relevance, given that the Council's accepted position in terms of supply does not significantly exceed its housing requirement in this case.
18. I am also mindful that the Council have indicated in a subsequent report to committee on 21 October 2015 that they do not have a five year housing land supply and that relevant policies for the supply of housing are therefore out of date. As this provides the most up-to-date evidence available, and no further comments have been made by the Council on this matter, I see no reason to disagree with the above stance. Therefore, I conclude that the Council cannot demonstrate a five year supply of housing land and thus relevant policies for

the supply of housing, STRAT 12 of the LPR is not considered up-to-date. In such circumstances paragraph 14 of the Framework applies. This means that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Accessibility

19. Nettleham is a second tier settlement within the settlement hierarchy and offers a range of essential facilities and services including, junior and infant schools, a doctor's surgery and a variety of shops. Although the Nettleham Medical Centre and a general convenience store are situated within 400m of the appeal site, the majority of essential facilities and services are located in the centre of the village slightly over 1 kilometre away. It is also positioned further away from the majority of local services and facilities than the allocated sites in the ENP.
20. The appellant has confirmed that the bus stops nearby are served by bus services to local secondary schools, the County Hospital and Lincoln. However, I have not been provided with details of the frequency or timing of these services. Consequently, based on the evidence put before me I cannot be sure that these services would provide a viable alternative to the private car for future residents to access essential services and facilities in Lincoln and other nearby settlements.
21. Whilst the appeal scheme would provide a new section of footway along Lodge Lane, the distance to the majority of local shops and services in the village centre exceeds the maximum walking distance of 800m sought by the Institute of Highways and Transportation document '*Providing for Journeys on Foot*' (IHT). A distance of up to 800m is also identified as a characteristic of a walkable neighbourhood in *Manual for Streets* (section 4.4.1) which provides national guidance on reasonable walking distances. Although I recognise that the village centre and local schools are within the maximum preferred walking distance cited in the IHT, having regard to the appellant's time estimations, I consider that it is unlikely that potential future occupiers would walk for between 13 and 16 minutes to reach the bus services, shops and schools in the village centre.
22. As such, whilst I find that the village has reasonable public transport provision, the appeal site is less than ideally located in terms of accessibility on foot to some of the bus stops, services and facilities in the village which would be required by future residents on a daily basis. In this respect it would conflict with saved policy STRAT 1 of the LPR which broadly aligns with one of the core planning principles of the Framework, which seeks to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Sustainable development

23. There are three dimensions to sustainable development: economic, social and environmental. These roles are mutually dependent and should be jointly sought to achieve sustainable development. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development.

24. In relation to the economy, there would be some economic benefits associated with the construction and occupation of 10 dwellings. Paragraph 19 of the Framework confirms that significant weight should be placed on the need to support economic growth through the planning system.
25. Turning to the social dimension, the proposal would contribute towards addressing housing need, and given by findings regard the Council's housing land supply position, this represents a social benefit of some considerable weight. However, when considering the schemes contribution towards housing supply in the round, one must also take account of any requirement for the provision of affordable housing. Saved policy RES 6 of the LPR states that where there is a demonstrated need the provision of affordable housing will be sought, with the Council seeking to negotiate contributions in the region of 25% affordable housing on sites which meet certain criteria. This includes, in settlements such as Nettleham with a population over 3000, sites accommodating 15 or more dwellings, or more than 0.5 hectares in size (the appeal site is 0.7 hectares in size and therefore falls under this threshold).
26. It is clear from the evidence put before me in this appeal and my colleagues conclusions in the recent appeal decision on the adjoining site (Ref: *APP/N2535/W/15/3129061*) that there is a shortage of and need for additional affordable housing provision in the District. As set out above, there is also a direct policy requirement for the appeal development to contribute towards the delivery of affordable housing. I am mindful that the Council prefers the use of a section 106 agreement to secure such provision, because of the greater certainty and detail it provides.
27. It has been suggested by the appellant that following the publication of the Written Ministerial Statement (WMS) on 28 November 2014 a contribution towards affordable housing is not required in this case. However, the High Court's judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015, confirmed that the policies in the WMS must not be treated as a material consideration in development management. No comments have been received from either of the main parties in respect of this judgement. Therefore, I must assess this appeal against the development plan requirement for the provision of affordable housing.
28. I am conscious that my colleague in the recent appeal decision on the adjoining land concluded that adequate affordable housing could be secured on site through the imposition of a suitable negatively worded condition. I assume in this case, unlike the proposal before me, the appellant did not dispute the need to provide for affordable housing. I also note that the PPG advises that in exceptional circumstances it may be appropriate for such a condition requiring an agreement to be entered into before development commences. No comments have been received from the main parties on this approach.
29. Given that the appellant does not consider that the appeal scheme should make provision for affordable housing it would not be appropriate to impose a condition to this effect as this would change the nature of the development applied for. As such, the appeal scheme would fail to accord with policy RES 6 of the LPR.
30. In respect of the environment, the appeal site is less than ideally located in terms of accessibility on foot to services, facilities and public transport. The

development would also result in the loss of a sizeable area of open countryside which is currently physically detached from the existing built form of Nettleham further to the north. Although there are occasional examples of sporadic built development on to the south of the settlement, this area is largely defined by open fields, paddock land and playing pitches which contribute to the verdant, semi-rural character of the southern approach into the village. The introduction of 10 new dwellings within this context would have an urbanising effect and detract from the predominately open pastoral feel of the area. This impact would not be sufficiently mitigated by existing landscaping which defines the boundaries of the appeal site and partially obscures views from the public right of way which passes to the west of the site.

31. Whilst the approved development on the adjacent land would extend the built form of the settlement to the south, it directly adjoins the village boundary and unlike the appeal proposal would not therefore encroach out significantly beyond the existing settlement limits of Nettleham. Consequently, the scheme would be contrary to saved policy NBE 10 of the LPR which seeks to ensure that development protects the landscape character of the District.

Overall Conclusions: The Planning Balance

32. The appeal scheme would make an important albeit modest contribution towards addressing the current shortfall of housing land in the District. It would also provide economic benefits associated with the construction and occupation of the dwellings. However, in considering what is sustainable development the Framework should be taken as a whole. In this case the benefits set about above are substantially and demonstrably outweighed by the social harm arising from the absence of provision towards affordable housing and environmental harm associated with the sites location and its impact on the character and appearance of the countryside. Therefore, the development would not provide a suitable site for housing, having regard to the principles of sustainable development. Accordingly, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

T Cannon
INSPECTOR