



Appeal Decision

Site visit made on 13 December 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Appeal Ref: APP/M2840/W/22/3302576

Land at Alberta Close, Corby NN18 9HU

- 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 A Di Fazio of Britannia Homes (Midlands) Ltd against the decision of North Northamptonshire Council.
 - The application Ref 20/00501/DPA, dated 12 November 2020, was refused by notice dated 21 January 2022.
 - The development proposed is a residential development of 14 dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Di Fazio of Britannia Homes (Midlands) Ltd against North Northamptonshire Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the proposed development makes adequate provision for affordable housing, with reference to both local and national planning policies.

Background

4. The proposal is for 14 open market dwellings and the appeal site is located within Corby, a 'Growth Town' as identified by Policy 11 of the North Northamptonshire Joint Core Strategy 2011-2031, adopted 2016 (CS). Policy 30(d) of the CS sets out the thresholds for the provision of affordable housing within private sector housing developments and states that proposals of 15 or more dwellings (net) or where the combined ground floor area of the dwellings exceeds 1,500sqm in the Growth Towns, the local planning authority will seek the provision of affordable housing at 30% of the total number of dwellings.
5. Paragraph 65 of the NPPF states, "where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution from the site), unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups". It then lists development types that are exceptions to this requirement.

6. The CS precedes the adoption of the National Planning Policy Framework (NPPF). Paragraph 219 of the NPPF states, "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

Reasons

7. As noted above, Policy 30(d) from the CS includes a threshold for the provision of affordable housing of 15 dwellings. As the proposal makes provision for 14 dwellings there would be no requirement for the provision of affordable housing under the terms of the development plan.
8. Paragraph 12 of the NPPF states that "the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making...Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed". The NPPF is a material consideration.
9. Paragraph 63 of the NPPF advises that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required. Paragraph 65, as cited above, then provides further advice around the provision of affordable home ownership, a term which is not specifically defined. However, the only change made to paragraph 65 of the NPPF by the 2021 update was to insert the words "the total number of" into the sentence. The general thrust of the paragraph has formed part of national planning policy since the NPPF was amended in July 2018.
10. From my reading of paragraph 65 of the NPPF, I believe that it aims to increase the provision of affordable home ownership as part of the overall affordable housing provision for a site and not introduce a national threshold for affordable housing. The CS would have been subject to a viability assessment before adoption, would have been informed by an evidence base, and was ultimately found to be sound. The thresholds detailed within Policy 30(d) of the CS were therefore established against this evidence and were consistent and remain consistent with paragraph 63 of the NPPF. For the NPPF to then impose a threshold that is lower than that detailed within the CS could undermine the viability of the scheme and would undermine the plan-led system. On this basis, I do not consider that policy 30(d) of the CS is inconsistent with paragraph 65 of the NPPF and therefore full weight should be afforded to it. The NPPF in this instance does not therefore provide for a material consideration that justifies a decision other than in accordance with the development plan.
11. In reference to the main issue, the proposed development should not be required to provide a contribution for affordable housing as it does not meet the thresholds contained within Policy 30(d) of the CS.

Other Matters

12. The Council refers to the need for an obligation under Section 106 of the Planning Act to secure education, libraries and fire hydrant contributions. The

appellant states in their appeal statement that in the main, the requests meet the tests as set out in paragraph 57 of the NPPF, with the exception of the requirement for early years services as the appellant considers that a lack of capacity in this regard has not been identified and suggests that fire hydrants could be addressed by way of a condition.

13. On the evidence before me, the need for the contribution sought by the Council in respect of primary and secondary education and libraries arises from the development and satisfies the tests outlined within paragraph 57 of the NPPF. I note in the Council's list of suggested conditions they have included a condition requiring fire hydrants and I agree that this would be an acceptable means of securing it. In respect of early years provision, I concur with the appellant in that a clear lack of capacity has not been identified and therefore this contribution does not meet the tests outlined within paragraph 57 of the NPPF. The appellant suggests that a unilateral undertaking will be prepared. However, no planning obligation is before me.

Conclusion

14. I have not been provided with a mechanism to secure financial contributions in respect of primary and secondary education and libraries and therefore, although I have found in favour of the appellant in respect of the main issue, I am unable to allow the appeal. For the reasons given above, the appeal is therefore dismissed.

A Berry

INSPECTOR