
Appeal Decision

Hearing held on 26 July 2016

Site visit made on 25 July 2016

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 24 August 2016

Appeal Ref: APP/Y2003/W/16/3145930

Seven Lakes Industrial Estate, Ealand, North Lincolnshire DN17 4JS

(Grid Ref: 478213 Easting 411063 Northing)

- 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 Colin Muscroft against the decision of North Lincolnshire Council.
 - The application Ref: PA/2015/0481, dated 26 March 2015, was refused by notice dated 23 September 2015.
 - The development proposed is a residential development on land west of A161.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development on land west of A161 at Seven Lakes Industrial Estate, Ealand, North Lincolnshire DN17 4JS (Grid Ref: 478213 Easting 411063 Northing) in accordance with the terms of the application, Ref: PA/2015/0481, dated 26 March 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 4) The detailed design of the development shall incorporate all of the flood mitigation measures identified in: Flood Risk Assessment (HJ Wroot, 18 December 2014); Flood Risk Assessment Addendum – Estate Road (HJ Wroot, 21 January 2015); Flood Risk Assessment Addendum 2 – Sequential and Exception Tests (HJ Wroot, 21 June 2015); and Additional Sequential Test Information (HJ Wroot, 1 July 2015). The development shall be carried out in accordance with the identified measures.
 - 5) No development shall take place until details of a noise impact assessment and mitigation strategy have been submitted to and
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approved in writing by the local planning authority. The assessment and any required mitigation shall conform to guidance and standards as set out by the local planning authority prior to commencement of any monitoring. The assessment shall provide details of existing background noise levels, any likely noise sources that will impact on the living conditions of future residents and the predicted noise levels at sensitive locations after mitigation. All necessary mitigation measures shall be carried out in accordance with the approved details before first occupation and retained thereafter.

- 6) No development shall take place until details of a scheme to provide safe vehicular and pedestrian access to the site across the A161 have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details prior to the occupation of not more than 50% of the dwellings.
- 7) None of the dwellings shall be occupied until sewage disposal and surface drainage works have been completed in accordance with a scheme to be submitted to and approved in writing by the local planning authority.
- 8) If, during the course of development, any contamination is found that has not been previously identified, measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate these measures and all work shall be carried out in accordance with the approved details.

Application for Costs

2. At the Hearing an application for costs was made by Mr Colin Muscroft against North Lincolnshire Council. This application will be the subject of a separate decision.

Main Issues

3. The main issues are:

- whether the Council has a five year supply of deliverable housing land;
- whether the proposal would constitute a sustainable form of development; and
- if a five-year supply of deliverable housing land cannot be demonstrated, whether other material considerations would significantly and demonstrably outweigh the benefits of the scheme.

Reasons

The development plan

4. The development plan comprises the North Lincolnshire Local Development Framework Core Strategy 2011 (CS), the North Lincolnshire Local Plan 2003 (LP) and the North Lincolnshire Local Development Framework Housing and Employment Land Allocations Development Plan Document 2016 (DPD). Saved policies CS2, CS3 and CS8 of the CS broadly seek to deliver more sustainable development, restrict development beyond defined settlement limits and focus new housing development within the development limits of Scunthorpe and a number of other key locations. Saved policy RD2 of the LP seeks to control

development in the open countryside and specifies a number of exceptions. Policy EALE-1 of the DPD has allocated the appeal site for employment use, as was the case in the previous plan.

5. The Council accepted, during the Hearing, that they are unable to demonstrate that a five-year supply of deliverable housing sites exists. Under such circumstances paragraph 49 of the National Planning Policy Framework 2012 (the Framework) advises that relevant policies for the supply of housing should not be considered up-to-date and that applications should be considered in the context of a presumption in favour of sustainable development. As saved policies CS3 and CS8 of the CS and saved policy RD2 of the LP seek to control the location of new housing they are related to housing land supply and are consequently out-of-date. As a result, these policies carry little weight in the planning balance of this appeal.
6. Whilst saved policy CS2 also seeks to control the location of housing and restrict development beyond development limits it also requires compliance with a number of sustainable development principles. As a result, this policy still carries some weight in the balance of this appeal. I therefore find the most relevant development plan policy to be saved policy CS2 of the CS. Consequently, this appeal has been determined with principal reference to this policy and the Framework.

Five-year requirement

7. Data on annual net housing completions were submitted for the period 2004-05 to 2013-14. Whilst the first three years show completions running above requirements, a net shortfall against the CS requirement is clearly present in subsequent years. This trend persisted in seven years out of ten and led to an overall shortfall of 1,773 homes against the CS target of 6,852 homes. Whilst a significant proportion, around 71% of the target, was delivered over this period, the trend nevertheless indicates a 'persistent under delivery'. Whilst it was suggested that the demand for housing would peak later in the plan cycle, no substantiated evidence was presented at the Hearing to suggest that the underlying, objectively assessed need would be subject to significant variation arising from changes in demand, in particular the completion of the South Humber Gateway. Furthermore, the appellant pointed out the undisputed fact that this matter was not raised as an issue in two recent local plan examinations¹.
8. Paragraph 47 of the Framework requires local planning authorities to boost significantly the supply of housing by increasing the buffer to 20% in order to provide a realistic prospect of achieving the planned supply when persistent under delivery is present. However, the Planning Practice Guidance advises that the requirement to bring forward an additional supply of housing involves questions of judgement and that it is legitimate to consider a range of issues. The Inspector who examined the DPD explicitly considered the Council's approach to the shortfall in housing and found the 5% buffer to be sound given the inclusion of contingency sites and the progress that had been made in relation to the proposed delivery of 6,304 dwellings at the Lincolnshire Lakes site.

¹ Report on the Examination of the Lincolnshire Lakes Area Action Plan, 20 April 2016 (PINS/Y2003/429/7) and Report on the Examination into the North Lincolnshire Housing and Employment Allocations Development Plan Document, 19 February 2016 (PINS/Y2003/429/5).

9. Whilst the Council has previously calculated that it had a deliverable housing land supply of 5.5 years for the period April 2015 to March 2020, with a 5% buffer, it was conceded during the Hearing that this was no longer the case. This was due to delays in the initiation of house building on the Lincolnshire Lakes site. Although it has been designated a priority site by the Homes and Communities Agency and a house builder has been secured to build the first 500 homes, it was agreed at the Hearing that no work was likely to commence until October 2016. The Council consequently accepted that it currently only has a deliverable housing land supply of around 4.9 years with a 5% buffer. Although this only represents a minor shortfall that could be absorbed in future years, provided house builders deliver the estimated build-out rates in excess of 300 units per annum on the Lincolnshire Lakes site, it is nevertheless a material consideration at the current time irrespective of whether a 5% or 20% buffer is applied.
10. Bearing in mind the above, the reason for refusal carries little weight as it relates to inappropriate development beyond the established development limit. This is because the supporting policies predominantly relate to the supply of housing. The Council nevertheless maintained during the Hearing that the proposal would undermine the spatial integrity of the development plan and that this would cause harm. I accept that the site has been allocated for employment use in policy EALE-1 of the DPD and that the proposal would lead to the loss of this use.
11. However, a previous Inspector observed that little interest has been shown in the site despite the fact that it had been marketed for 7 years at that particular point in time (Ref:APP/Y2003/A/14/2221377). Whilst no attempt was made to alter the allocation during the local plan process it was agreed at the Hearing that there was not an under supply of employment land in the local authority area. Bearing in mind that more than 1,200 ha of land has been allocated for employment use in the DPD, I am not satisfied that the loss of 0.4 ha would have any significant impact on the overall provision of such land. The scale of the proposed development, its proximity to the development limit, the established suitability of the site for development and the extant permission for 20 houses immediately to the west all weigh in favour of this location as does the fact that it is not a green field site. As a result, I am satisfied that the harm to the spatial integrity of the local plan would be *de minimis* in this particular instance.
12. Given the above, I conclude that the proposal would not cause significant harm to the spatial integrity of the development plan and that it would be supported by paragraphs 22 and 47 of the Framework that seek to ensure that alternative uses of land are considered and that local authorities boost the supply of housing.

Sustainability

13. The Framework advises that the economic role of sustainable development involves supporting growth by ensuring that sufficient land of the right type is available in the right places and at the right time. This should involve identifying and coordinating development requirements, including the provision of supporting infrastructure. In this respect the proposal would make an, albeit small, contribution to the supply of housing and would provide temporary

employment opportunities during its construction phase. Consequently, these modest benefits weigh in favour of the proposal.

14. The Framework advises that the social role of sustainable development involves supporting strong, vibrant and healthy communities through providing housing that will meet the needs of present and future generations. This should comprise a high-quality built environment with accessible local services that reflect a community's needs. In this respect it has been established that accessible local services are present that would meet the needs of future occupants. Consequently, this small benefit also weighs in favour of the proposal.
15. The Framework advises that the environmental role of sustainable development involves seeking the protection and enhancement of our natural, built and historic environments. This should comprise improving biodiversity; ensuring the prudent use of natural resources; the minimisation of waste and pollution; and actions that promote climate change mitigation and adaptation. In this respect the location would be sustainable as alternative modes of transport are present that would reduce reliance on the use of private motor vehicles. The proposal would also utilise previously developed land thus encouraging the more prudent use of resources. Consequently, these moderate benefits also weigh in favour of the proposal.

Sustainability and the balance

16. Planning law² requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is one such material consideration. The three roles of sustainable development are mutually dependent and it is clear that the proposal would deliver economic, social and environmental benefits. Furthermore, the pattern of growth would be in a sustainable location, as agreed by both parties. The adverse impact on the spatial integrity of the development plan would be minimal and no other harm has been identified. Consequently, the adverse impacts arising from the development would not significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework as a whole. It would therefore amount to a sustainable form of development and would thus be consistent with saved policy CS2 of the CS and paragraph 14 of the Framework. Insofar as relevant policies apply, this would be in accordance with the development plan.

Conclusion

17. The determinative factors in my decision are that the Council has not been able to demonstrate a deliverable five-year housing land supply, the proposal would constitute sustainable development and that there are no material considerations that would significantly and demonstrably outweigh the benefits of the scheme.

Planning Conditions

18. I have considered both the wording and grounds for the conditions suggested by the Council in accordance with the tests set out in paragraph 206 of the

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended)

Framework. In addition to the three standard conditions relating to outline permissions, a condition requiring the incorporation of flood mitigation measures is necessary in the interests of public safety because of the location of the development in a flood zone [condition 4].

19. In order to ensure that the living conditions of future occupants are safeguarded from excessive background noise generated by the nearby road network it will be necessary for the appellant to submit a noise impact assessment and mitigation strategy [condition 5].
20. Bearing in mind the intensity of use of the nearby road it will be necessary to ensure there is a safe means of pedestrian and vehicular access across the A161 before the development is fully occupied in the interests of highway safety [condition 6].
21. Surface water and foul water drainage arrangements need to be agreed to ensure satisfactory disposal and to minimise the risk of surface water flooding arising from the development [condition 7].
22. As the site comprises previously developed land, a mechanism to ensure the safe remediation of any unknown sources of contamination is necessary in order to protect the living conditions of future occupants of the development [condition 8].

Conclusion

23. For the above reasons and having regard to all other matters raised I conclude that, subject to appropriate conditions, the appeal should be allowed.

Roger Catchpole

INSPECTOR

APPEARANCES

FOR THE COUNCIL

Mr J Roberts BSc MA MRTPI, Senior Planning Officer

Ms E Pearson BA(hons) MA, Spatial Planning Officer

Ms K Mills BSc MSc, Spatial Planning Officer

FOR THE APPELLANT

Mr L Bolton BSc(hons) MRTPI, Director, DLP Planning Ltd

Ms S Boyce BA(hons) MA MRTPI, Senior Planner, DLP Planning Ltd

DOCUMENTS SUBMITTED

S1 Revised housing land supply calculation (Table 1 - SPRU Supply with SPRU methodology).

S2 Housing trajectory and infrastructure phasing plan (Figure 6.1 – Lincolnshire Lakes Area Action Plan 2016).

S3 Report on the Examination of the Lincolnshire Lakes Action Plan, 20 April 2016.