The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2017

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 25 January 17

Appeal Ref: APP/K2420/W/16/3159043
8 Wood Lane, Norton Juxta Twycross, Atherstone, Leicestershire CV9 3QB

- 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 Mrs Lynette Fallowes against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 15/00536/OUT, dated 13 May 2015, was refused by notice dated 20 April 2016.
- The development proposed is erection of 3 dwellings.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application the subject of this appeal was submitted in outline with matters relating to scale, appearance and landscaping reserved for subsequent approval. Access and layout were the only detailed matters fixed for determination. I have dealt with the appeal on this basis.

3. The description of the proposed development changed during the processing of the planning application from 8 to 3 dwellings. The scheme determined by the local planning authority was for the erection of 3 dwellings. Accordingly, I have used the description of development on the decision notice.

4. In the banner heading I have used the address of the appeal site given on the decision notice, which correctly identifies the site as being located in Leicestershire, as opposed to Warwickshire which was stated on the application form. I also note the error in the date of the application on the submitted application form advised by the appellant. Therefore, in the banner heading I have used the date of the application given in the appeal form.

5. The planning application was determined against the policies of the Hinckley and Bosworth Local Development Framework Core Strategy (2009) (the Core Strategy), the saved policies of the Hinckley and Bosworth Local Plan (2001) and the emerging Hinckley and Bosworth Site Allocations and Development Management Policies DPD (the SADMP). The SADMP was adopted in July 2016, replacing the remaining saved Local Plan polices. Accordingly, I have determined this appeal against the policies of the Core Strategy and the SADMP.

Main Issues

6. The main issues in this appeal are:

- Whether the site is an appropriate location for the proposed development, having regard to the relevant policies of the development plan and the National Planning Policy Framework for development in rural areas;
- Whether the proposed residential development would provide acceptable living conditions for future occupiers, with regard to noise and disturbance;
- The effect of the proposal on the future operation and economic viability of the adjacent employment site.

Reasons

Location of development

7. Norton Juxta Twycross is defined as a Rural Hamlet in the Core Strategy. Paragraph 4.46 of Core Strategy states that because of the limited services in these hamlets, development will be confined to infill housing development, unless it is for a local choice scheme or employment uses. Policy 13 of the Core Strategy clarifies that in the Rural Hamlets housing development will be supported within settlement boundaries or where it complies with Policy 17 on local needs. The settlement boundary for Norton Juxta Twycross is defined in the SADMP, from which it is clear that the appeal site lies outside of the settlement boundary. The appeal proposal is not identified as a local choice scheme or to meet local housing needs. Therefore, it is not supported by Policy 13 of the Core Strategy.

8. Beyond the defined settlement boundaries, paragraph 13.2 of the SADMP states that development will be restricted to proposals which fulfil the criteria in Policy DM4. These allow that development in the countryside, namely outside of settlement boundaries, will be considered sustainable where it is for outdoor sport or recreation, change of use or re-use of existing buildings, it contributes to economic growth, it relates to the provision of a renewable energy development or it provides accommodation for a rural worker. The appeal proposal would not satisfy any of these criteria. Criteria i)-v) of Policy DM4 are additional and do not offer any other exceptions in support of the proposed development.

9. Paragraph 55 of the National Planning Policy Framework (the Framework) in seeking to promote sustainable development in rural areas, expects housing to be located where it will enhance or maintain the vitality of rural communities. Paragraph 9.1 of the SADMP explains that the Rural Hamlets are small rural settlements with limited to no service provision, public transport or retail offering. Norton Juxta Twycross has almost no service provision. Other than a village hall and church, there is no shop, school, post office, public house or bus service. Whilst, paragraph 55 of the Framework suggests that development in one village may support services in a village nearby, the nearest larger village is Twycross over 3 kilometres away, where there is no local shopping provision. Services in Austrey, Congerstone and Appleby Magna are further away. It is unlikely that 3 additional houses on the appeal site would make a significant contribution to supporting services in these villages. Furthermore, occupiers of the proposed dwellings would be reliant on the use of a private car to access local services, which would not support the emphasis

in paragraph 34 of the Framework on minimising the need to travel and maximising the use of sustainable transport modes.

10. On this basis, I conclude that the appeal site would not be an appropriate location for the proposed development. The proposal would be contrary to Policy 13 of Core Strategy and Policy DM4 of SADMP in respect of development in rural areas and would fail to meet the aims of paragraphs 34 and 55 of the Framework.

Living conditions

11. The appeal site is adjacent to an active engineering works to the east. The nearest garden of the proposed dwellings would be around 40 metres from the main factory workshop. Two noise surveys have been submitted, one by the appellant and one on behalf of the operator of the engineering works. Both recorded existing background noise levels at the appeal site in the vicinity of the proposed dwellings to be around 45dB(A). From my own observations on site the background noise of the engineering works and traffic on the nearby A444 were not intrusive. However, I acknowledge the factory was not in full operation at the time of my visit.

12. The survey on behalf of the engineering works measured noise from factory operations at the appeal site to be around 62dB(A) at a position equivalent to the siting of the nearest dwelling. Mitigation measures are proposed by the appellant, including sound insulation within the building envelope of the proposed houses, glazing with trickle ventilation and a 3 metre high acoustic barrier placed within 5 metres of the workshop. The appellant's assessment suggests that with these measures in place noise levels at and within the proposed dwellings would meet WHO noise guidelines for indoor and outdoor living areas, without causing moderate or serious annoyance during the daytime and night time. The Council's Environmental Health Officer has recommended active ventilation to rooms to avoid windows having to be opened and an extended noise barrier, but otherwise appears to accept the results of the appellant's noise survey. An agreed scheme of mitigation measures could be secured by condition which would effectively mitigate noise levels on site.

13. Based on the evidence before me, therefore, I conclude that the proposed residential development would provide acceptable living conditions for future occupiers, with regard to noise and disturbance. Consequently, it would not conflict with Policy DM10 of the SASMP which seeks to ensure development does not have an adverse noise impact on the amenity of nearby residents. It would also be consistent with paragraphs 17 and 123 of the Framework which seek a good standard of amenity for existing and future occupiers and aim to avoid noise giving rise to adverse impacts on health and quality of life.

Business operation

14. Given my conclusion on the effect of noise from the adjacent factory on the living conditions of future occupiers of the appeal site, it follows that the proposed development should not give rise to additional noise complaints in relation to the factory operation. The proposed dwellings would be sited further away from the main workshop of the engineering works than existing dwellings on Wood Lane to the east and north of the factory and should not therefore worsen the existing relationship between the engineering works and nearby residential occupiers.

15. Accordingly, I conclude that the proposed development would not undermine the future operation and economic viability of the adjacent employment site. Consequently, it would not conflict with the expectations of paragraphs 19 and 28 of the Framework that planning should support sustainable economic growth and the operation of business and enterprise in rural areas.

Other Considerations

16. There is no dispute that the Council can demonstrate a 5 year supply of deliverable housing sites. Therefore, the relevant policies for the supply of housing are not out of date or silent. I have concluded above that the proposal does not accord with the development plan in respect of its location. Consequently, the presumption in favour of sustainable development under the third and fourth bullet points of paragraph 14 of the Framework does not apply in this case.

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, I have considered whether any benefits arising from the proposal would lead to a conclusion that the scheme would otherwise constitute sustainable development when assessed against the economic, social and environmental dimensions in paragraph 7 of the Framework.

18. In terms of economic considerations, the proposed development would provide a limited, short term benefit to the local economy through the creation of jobs and demand for local services during the construction period. With regard to social benefits, whilst the provision of three new houses would make a small contribution to the national housing supply, the weight to be attached to this is limited by the fact that the Council has identified sufficient land to meet local housing requirements for at least the next 5 years and in locations with better access to services and facilities. Any support for local services and facilities arising from the proposed development would also be limited by the lack of such services and facilities in Norton Juxta Twycross and the poor accessibility of the site by public transport to services in other villages. The proposal would no longer trigger infrastructure contributions to open space facilities, following the change to national planning policy prohibiting tariff-style planning obligations for developments of 10 dwellings or less, which was reintroduced in May 2016 by the Court of Appeal judgement on the November 2014 Written Ministerial Statement.

19. The proposal would result in an environmental benefit through the redevelopment and clean-up of an overgrown and derelict site former agricultural site. However, again this would be counter-balanced by the environmental harm due to the poor accessibility of location and the resultant increase in the need to travel and the use of unsustainable modes of transport.

20. In terms of the overall planning balance, the proposal would fail to accord with the policies of the development plan guiding the sustainable development of housing in rural area areas. The appeal site is outside of the settlement boundary of a rural hamlet, in a location which is not served by public transport, with no services and few local facilities. As such the proposal would cause significant harm to the spatial strategy of the development plan as set out in the Core Strategy and the recently adopted SADMP. The absence of harm to future living conditions and to the operation of the adjacent business,

combined with the limited economic, social and environmental benefits arising from the proposal, would not outweigh the harm which would result from the location of the proposed development and its conflict with the development plan. On this basis, the proposal would not constitute sustainable development.

Conclusion

21. For the reasons given above and taking all other matters into account, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR