
Appeal Decision

Site visit made on 28 November 2016

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 02 March 2017

Appeal Ref: APP/N2535/W/16/3154773

Land off Scothern Road, Nettleham, Lincoln, Lincolnshire

- 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 M.E. Stuffins against the decision of West Lindsey District Council.
 - The application Ref 133926, dated 19 January 2016, was refused by notice dated 12 May 2016.
 - The development proposed is the erection of thirty-eight dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters relating to layout, scale, appearance, access and landscaping reserved for subsequent approval. A proposed site layout plan was submitted with the application. However, the Design and Access Statement confirms this is indicative to support the case for the number of dwellings proposed. I have dealt with the appeal on this basis.

Development Plan context and Main Issue

3. The development plan relevant to this appeal comprises the 'saved' policies of the adopted West Lindsey Local Plan First Review (2006) (the WLLPR) and the made Nettleham Neighbourhood Plan (2015) (the NNP). There is also an emerging Central Lincolnshire Local Plan (CLLP), covering the City of Lincoln, West Lindsey and North Kesteven districts, which was submitted for examination in June 2016. Although the CLLP and the examination have reached an advanced stage, with main modifications published for consultation following the examination hearings, the spatial strategy, policies and site allocations of the CLLP remain subject to the outcome of this consultation and the Inspector's report. Therefore, the weight to be afforded the CLLP in this appeal is limited accordingly.
4. The Council maintains that a 5 year supply of deliverable housing land can be demonstrated against the current objectively assessed housing requirement for the Central Lincolnshire Housing Market Area (HMA). However, this relies on allocated sites in the emerging CCLP which have not yet been adopted. The Council acknowledges that it does not have sufficient allocations remaining in the adopted WLLPR to meet the 5 year supply. Accordingly, under paragraph 49 of the National Planning Policy Framework (the Framework), I agree that the relevant policies for the supply of housing in the WLLPR cannot be considered up to date.

5. With regard to the NNP, the Written Ministerial Statement (WMS) published on 12 December 2016, established that the relevant policies for the supply of housing in made neighbourhood plans should not be deemed to be out of date under paragraph 49 of the Framework, where specific circumstances can be satisfied. Given the Council's reliance on the policies of the NNP in determining the application the subject of this appeal, I sought the views of the main parties on whether the NNP met the criteria in the WMS. Against the first two, it is evident that the NNP was made less than 2 years ago in December 2015 and allocates sites for housing. However, whether the Council can demonstrate a 3 year supply of deliverable housing sites is disputed.
6. I have considered the evidence submitted on housing land supply. The latest position for the period April 2017 to March 2022 is set out in the Central Lincolnshire Five Year Land Supply Report, published in September 2016. Table 4 of the report confirms that the 5 year requirement for the HMA is 12,092 additional dwellings, at an average of 2,418 dwellings per year. On this basis the 3 year requirement is 7,254 dwellings. Against this Table 5 of the report confirms that the supply for the next 3 years (2017/18 to 2019/20), including sites allocated in the emerging CLLP, is 6,414 dwellings. Therefore, based on this evidence, a 3 year supply of deliverable housing sites cannot be demonstrated within Central Lincolnshire. Accordingly, under the WMS as it applies to paragraph 49 of the Framework, the policies relevant to the supply of housing in the NNP should not be considered up to date.
7. Consequently, it is appropriate to consider this appeal in the light of the fourth bullet point of paragraph 14 of the Framework. In view of this and having regard to all of the evidence before me, the main issue in this appeal is whether or not any harm which may be caused by the proposal would significantly and demonstrably outweigh its benefits, having particular regard to:
 - the effect of the proposed development on the character and appearance of the appeal site and the surrounding countryside and on the setting of Nettleham;
 - the contribution of the proposal to meeting any shortfall in housing land supply and affordable housing needs.

Reasons

Character and Appearance

8. The appeal site is located on the northern edge of Nettleham to the west of Scothern Road. It occupies the southern half of a large field, which forms part of the countryside surrounding the northern side of Nettleham. The field is flat, laid to crops and bounded by hedgerows. Together with the adjacent fields to the north, east and west it contributes to an attractive, open rural landscape on edge of the village. The landscape affords long distance views to and from Nettleham, which form part of the setting of the village. The open, undeveloped nature of the site also adds to the tranquillity of the environment surrounding Nettleham.
9. One of the core planning principles in paragraph 17 of the Framework is that planning should take account of the character of different areas, recognising the intrinsic character and beauty of the countryside. Saved Policy STRAT 12 of the WLLPR also seeks to protect the open countryside from development.

10. The appeal proposal would extend the built up area of Nettleham into land which is currently part of the open countryside. I acknowledge that the development could create a new northern boundary to the village. However, it would harm the intrinsic beauty and tranquillity of the appeal site and its contribution to the surrounding countryside to the north of the village. It would lead to the loss of open land which defines the rural character of the parish and of the setting to Nettleham, as described in the Nettleham Village Design Statement (2010).
11. I recognise that the proposal would conform with Policy D-5 of the NNP in that it would be adjacent to the existing built form of Nettleham, would not be isolated in the countryside and would not extend the linear format of the village, given the presence of houses on the opposite side of Scothern Road. However, the proposed development would conflict with saved Policy STRAT 12 and paragraph 17 of the Framework.
12. I have considered the respective arguments of the main parties on the weight to be accorded to saved Policy STRAT 12. In so far as it is a relevant policy for the supply of housing by restricting development outside of the settlements listed in saved Policy STRAT 3 of the WLLPR, the Council confirms that Policy STRAT 12 is out of date and should be afforded little weight. However, Policy STRAT 12 also has a role in conserving the countryside for the sake of its beauty, the diversity of its landscape and its undeveloped character, as explained in the justification to the policy in paragraph A96 of the WLLPR.
13. The Court of Appeal in *Suffolk Coastal DC v Hopkins Homes Ltd and SSCLG* [2016] established that paragraphs 14 and 49 of the Framework do not say out of date policies should be ignored. Rather, it confirmed that weight can be attached to such policies by the decision maker and that the particular purpose of the policy could influence the weight to be accorded to it. The judgement found that there will be cases in which restrictive policies are given sufficient weight to justify the refusal of planning permission, despite not being up to date under paragraph 49.
14. Saved Policy STRAT 12 is consistent with paragraph 17 of the Framework in seeking to protect the countryside for the sake of its natural beauty and undeveloped character. Therefore, whilst I accord little weight to the policy in restricting housing land supply, I do attach significant weight to Policy STRAT 12 in conserving the character and appearance of the countryside.
15. On this basis, I conclude that the proposed development would cause unacceptable harm to the character and appearance of the appeal site and the surrounding countryside and to the setting of Nettleham. As such it would conflict with the aim and purpose of saved Policy STRAT 12 of the WLLPR in seeking to conserve the countryside for the sake of its beauty and undeveloped character. Consequently, the proposal would also fail to comply with paragraph 17 of the Framework.

Housing Land Supply and Need

16. The Council states that there is a supply of 12,712 additional dwellings on deliverable sites, amounting to a total of 5.26 years of housing land supply within the HMA. However, this is dependent on sites allocated in the emerging CLLP. The appellant maintains that 5,201 dwellings (41%) of the housing land supply is predicated on draft CLLP allocations without planning permission and

points to persistent under delivery of housing within the HMA against the annual requirement. Although I have been given little firm evidence to prove that the emerging allocations are unlikely to be delivered in the next 5 years, given that they are not yet adopted, I recognise that they are at greater risk of not coming forward within that period. Therefore, taking 5,201 dwellings as a worst case proxy for the shortfall in housing land supply, the 38 dwellings proposed on the appeal site would make up less than 1% of that shortfall. Paragraph 47 of the Framework emphasises the need to boost significantly the supply of housing. The appeal proposal would make a small contribution to this objective and accordingly, I attach a limited amount of weight to this as a benefit of the proposal.

17. In terms of affordable housing, the Central Lincolnshire Strategic Housing Market Assessment (SHMA) identifies a need for 911 affordable homes per year across the HMA, with a shortfall in provision of around 200 dwellings per year. The NNP confirms a need for 34 affordable and sheltered homes within Nettleham parish. The appeal scheme proposes 10 affordable dwellings on-site, secured through a planning obligation within a unilateral undertaking. This would meet the expectation in saved Policy RES 6 of the WLLPR for a 25% contribution to affordable housing on sites of 15 dwellings or more in settlements with populations of over 3,000 people. It would also satisfy the provisions of Policy H-4 of the NNP in respect of on-site affordable housing.
18. A signed, dated and completed legal undertaking under S106 of the 1990 Act has been provided by the appellant, which would secure the provision of the 10 dwellings with nomination rights to ensure they would meet local needs. The undertaking satisfies the tests for planning obligations contained in paragraph 204 of the Framework and CIL Regulation 122.
19. Although there is a need for affordable homes within Nettleham parish, the NNP already allocates four housing sites from which the affordable housing needs of the parish would be met. Whilst none of the NNP sites have commenced development, I have seen little evidence to suggest that they would not come forward in the next few years. Beyond the parish needs the proposed development would help to address the overall housing needs of the HMA. The provision of 10 affordable dwellings would make a small contribution to addressing the annual HMA shortfall of 200 affordable homes. Accordingly, I attach a limited amount of weight to this as a benefit in favour of the proposal.

Other Considerations

20. The proposed development would be well located in relation to village facilities and adequately served by public transport. The site lies approximately 800 metres from the centre of Nettleham where most of the shops and services are located. There is a pavement alongside Scothern Road providing access on foot from the indicative site entrance to the village centre. A playing field is located within 500 metres of the site again accessible on foot via Scothern Road. I also noted bus stops on Scothern Road with regular services to and from Lincoln. Accordingly, the appeal site is accessible to nearby facilities and by sustainable modes of transport. I attach moderate weight to this in favour of the proposal.
21. I also recognise that the development of new homes would help to sustain village shops, local businesses and services. This would be a benefit to the

economy of Nettleham, albeit the value deriving from 38 dwellings and therefore the weight to be accorded to it would be limited.

22. Under the terms of the unilateral undertaking submitted by the appellant, the proposed development would make an education contribution of £45,105. This would fund 4 primary school places at Nettleham junior school, to meet the needs arising from the development when the school reaches capacity in 2018. The undertaking would also secure the transfer of an area of land on the appeal site for public open space, together with a contribution of £15,000 towards open space improvements. Whilst on the one hand these contributions would benefit the area in the form of new and enhanced local facilities, on the other hand it must be recognised that the proposed development would also place additional pressure on the use of local facilities. The purpose of these S106 contributions is to mitigate those impacts. Accordingly, their overall effect on local facilities and infrastructure would be neutral.
23. The planning application was in part refused on the grounds of insufficient information on flooding and drainage. However, a Flood Risk Assessment (FRA) and a Drainage Strategy were submitted with the application, supported by trial hole surveys. The FRA confirms that the site lies within Flood Zone 1 as defined on the Environment Agency's (EA) Flood Zone Maps, which is an area at low risk of flooding. It appears that the Council's remaining concern centres on whether the geology of the site would allow an adequate infiltration rate to prevent flooding from surface water. Whilst I understand that historically the site drains poorly, I have seen little evidence to suggest that with suitable on-site filtration measures, the development could not be drained adequately without increasing flooding on surrounding land and property. The application has been made in outline and I am satisfied based on the evidence before me that a suitable drainage strategy and measures, evidenced by further ground investigations, could be secured by condition, were I minded to allow this appeal. Accordingly I find no harm arising from flood risk or drainage which would weigh against the proposal.
24. I note the concerns about additional traffic generated by the proposed development on roads within the village. However, the increase in the number of car journeys arising from 38 dwellings would not be significant, particularly given the accessibility of the site by more sustainable modes of travel. I recognise the cumulative effect of journeys from this site in addition to the housing sites identified in the NNP. Nevertheless, there is little evidence that the appeal proposal would give rise to unacceptable levels of traffic or that it would cause harm to highway safety.

Planning Balance

25. I have established that it is appropriate to consider this appeal in the light of the fourth bullet point of paragraph 14 of the Framework under the presumption in favour of sustainable development. This means granting permission for the appeal proposal unless the adverse impacts of doing so would significantly outweigh the benefits.
26. In terms of benefits, the appeal site is well located within walking distance of a range of facilities and services in Nettleham and served by public transport. As such the proposed development would support village shops, businesses and services and enable the use of sustainable modes of travel. Together these benefits offer moderate weight in favour of the proposal. The proposal would

also make a small contribution to the overall supply of housing in the HMA and to meeting the need for affordable housing. The benefit arising from this would be limited given the number of dwellings proposed compared to the size of the overall shortfall in supply and the level of housing need in the area.

27. In terms of its impact, the development of part of the open countryside surrounding Nettleham would cause significant harm to both the intrinsic character and beauty of the countryside and to the rural setting of Nettleham. Accordingly, I attach significant weight to this as an adverse impact. The absence of harm to traffic, drainage and flood risk and the impact on community facilities and infrastructure attract neutral weight in the planning balance.
28. Overall, I conclude that the harm the proposal would cause to the character and appearance of the countryside and to the setting of Nettleham would significantly and demonstrably outweigh the benefits of the scheme. Accordingly, the proposal does not constitute sustainable development.
29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine this appeal in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the proposal conflicts with the development plan when read as a whole. Given that on the basis of the planning balance it would not be sustainable development, there are no material considerations warranting a decision other than in accordance with the development plan.

Conclusion

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

M Hayden

INSPECTOR