
Appeal Decision

Site visit made on 5 July 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/W0530/W/17/3172305

Land west of Desmonds Close, High Street, Hauxton

- 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 Shelford Properties Ltd against the decision of South Cambridgeshire District Council.
 - The application Ref S/2999/16/FL, dated 2 November 2016, was refused by notice dated 15 March 2017.
 - The development proposed is a residential development comprising 5 open market dwellings and associated garden land, road infrastructure, landscaping, and new access from Desmonds Close following demolition of existing agricultural buildings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the determination of this appeal is whether the proposed development would make adequate provision for affordable housing.

Reasons

3. The proposed development would comprise the erection of five dwellings described as being for the open market. Prior to refusing the appeal scheme, the Council granted an outline planning permission¹ for the same number of dwellings, with two of the five units being secured as affordable dwellings through an agreement under Section 106 of the Act². No such agreement, as a planning obligation, has been submitted with the appeal before me.
4. There does not seem to be disagreement between the Council and the appellant that the proposed development would conflict with Policy HG/3 of the Local Plan³ without the contributions required by it. This policy requires, as part of an agreed scheme, 40% or more of the dwellings provided to be given as affordable on developments of two or more dwellings.
5. As part of a Written Ministerial Statement (WMS) in November 2014, the Government set out that affordable housing contributions should not be sought on schemes of ten dwellings or less or which have a floor space of less than

¹ South Cambridgeshire reference S/0247/15/OL

² The Town and Country Planning Act 1990

³ South Cambridgeshire Local Development Framework Development Control Policies Development Plan Document 2007

1,000 square metres. Subsequent changes to reflect this position were made to Planning Practice Guidance (PPG). The purpose of the WMS, amongst other things, was to exempt smaller scale developments from the need to contribute towards the provision of affordable housing in order to tackle the disproportionate burden of developer contributions on small-scale developers (my emphasis). A legal challenge to this position followed, but the provisions of the WMS and changes to PPG remained following a ruling in favour of the Government's position in the Court of Appeal⁴.

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990^{*1} requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise. Policy HG/3 is therefore my starting point. It is part of a development plan of some age but is not 'out of date'. The WMS is the most up to date expression of the Government's policy position on developer contributions for affordable housing on small scale developments. As such it is a weighty material consideration.
7. The Council's case demonstrates not only the level but type of affordable housing need relevant to their district and the settlement of Hauxton itself. They have regarded the content and intentions of the WMS, but remain of the view that small sites play an important part in delivering affordable housing to their district. I consider this relevant to Hauxton specifically given that it is not one of the larger settlements that could necessarily support growth of a significant scale, over the threshold that the WMS sets out. I acknowledge the appellant's argument that this is not an unusual situation for a rural district. Be this as it may, it is not my role in determining this appeal to make a ruling on what may be a wider delivery problem in rural areas generally. I am tasked with reaching a view based on the evidence before me which concerns South Cambridgeshire and Hauxton specifically.
8. The appellant also suggests that the WMS establishes a de facto threshold which should be applied across the board and that this should, in effect, 'trump' the development plan policy where a lower threshold is set out. I agree that the WMS is the most up to date expression of national policy. However, given the provisions of the development plan and assertions of the relevant Acts^{*1}, I have to be satisfied that the WMS, as the relevant material consideration in this case, attracts sufficient weight to have me adopt a position contrary to the development plan. Indeed, the Court of Appeal's judgement relating to the WMS has clearly established that its policy measures should not automatically be applied without regard being paid to the full circumstances of any given case, including the provisions of development plan policies.
9. The Council have desktop tested the viability of the appeal scheme which suggests the proposed development would not suffer in light of the contributions that have been agreed to on a similar scheme for the same number of dwellings on the same site. Without any compelling evidence to counter this before me from the appellant, it is hard for me to see precisely where the disproportionate burden on the developer may be for the appeal site that would warrant a departure from the development plan and my attaching of the greater weight to the approach of the WMS. There was around ten months between the determination of the aforementioned outline planning permission

⁴ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council (2016)

and the submission of the scheme before me. Were there any viability concerns with the extant scheme, it is reasonable to assume that they would have been addressed in the interim period. Again and for the same reasons (in the absence of anything to the contrary) I have to consider that the extant planning permission with the contributions attached would represent a viable scheme in the appellant's view.

10. The appellant contends that viability is not a matter that needs to be brought to the table. Given the stance of the WMS in that it aims to tackle the disproportionate burden of developer contributions on small-scale developers however, I cannot see where it would be wholly irrelevant, particularly in the case of the scheme before me and in the face of its scale, the Council's evidence on need and the extant planning permission with contributions committed to.
11. The appellant's evidence alludes to there being some concerns over the Council's affordable housing threshold as it is intended to be set out in the emerging Local Plan. Examining Inspectors appear to be concerned over the evidence base therefore. Whilst this may be the case, this is in respect of evidence for an as yet unadopted document and thus attracts only very limited weight. Whether the Council's threshold changes or not it does not change the position of the Council's current policy which is adopted policy at the time I determine this appeal.
12. Taking all of the above matters into account; it is my finding that the proposed development would not adequately provide for affordable housing in the absence of the obligation that has been agreed on the same site with the same number of dwellings. This lack of provision would lead to conflict with Policy HG/3 of the Local Plan which responds adequately to the requirements of paragraph 50 of the Framework⁵. These approaches seek to ensure that appropriate affordable housing is secured through qualifying new development to meet ongoing identified need.

Other Matters

13. Both the Council and the appellant have brought examples of Inspectors' findings on both individual cases and development plan inquiries to my attention. The examples support the principle stance of both parties which is that either the thresholds in the development plan or the WMS should be followed in this particular case. There is little doubt that my conclusions here may be different to the referred examples. I have however taken a view on the evidence that is available to me with regard to the particular circumstances of this case. Highlighting that each development proposal is considered on its own merits.

Conclusion

14. Whilst having regard all other matters raised, I find that the appeal should be dismissed for the reasons I have set out above.

John Morrison

INSPECTOR

⁵ The National Planning Policy Framework 2012