The Planning Inspectorate

Appeal Decision

Hearing Held on 3 October 2017

Site visit made on 3 October 2017

by B Bowker Mplan MRTPI

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

Decision date: 19th December 2017

Appeal Ref: APP/J3720/W/17/3175407
Land adjoining Welford Road, Long Marston

- 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 Bloor Homes Western against the decision of Stratford on Avon District Council.
- The application Ref 16/02206/FUL, dated 1 July 2016, was refused by notice dated 10 November 2016.
- The development proposed is erection of 15 dwellings including an extended area of public open space and other associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address used above is taken from the decision notice which is a more complete version.

3. A Unilateral Undertaking (UU) has been submitted by the appellants. I allowed the appellants additional time following the hearing to provide a completed version of the UU. The completed version was duly received and has been taken into account in my determination of the appeal.

4. On 31 July 2017 the Council published an information sheet relating to its five year housing land supply calculation as of 31 March 2017. Consequently the appellants no longer contend that the Council cannot demonstrate a five year housing land supply. The consensus view of the parties on this matter is recorded in section 2.3 of the signed and dated Statement of Common Ground (SoCG).

5. During the hearing I sought an update from the parties in relation to the list of housing sites[1] that formed part of the appellants' initial housing land supply case. Based on all I have heard and read, I have no reason to disagree with the consensus reached by the parties in respect of housing land supply.

6. Consequently I am satisfied that the Council can demonstrate a five year supply of housing land. The appeal has been determined on this basis. Accordingly, and as recognised by the parties at section 3.2 of the SoCG,

[1] Sections 3.5 – 3.11 of the appellants Supplementary Statement.

paragraph 14 of the National Planning Policy Framework (the Framework) is not engaged.

Main Issue

7. The main issue is whether the proposal would accord with development plan policies regarding housing delivery.

Reasons

8. The appeal site is located at Long Marston and comprises a relatively level field that adjoins recently constructed residential development at its eastern and southern boundaries. Via the submitted UU, future occupants of the ten market bungalows would be aged 55 and over. The proposal is described as phase 3 of a wider residential development scheme where 40 dwellings have already been constructed.

9. Policy CS.15 of the Core Strategy (CS, adopted 11 July 2016) seeks to ensure that development within the district is distributed on a pattern of balanced dispersal over the plan period, in accordance with the distinctive character and function of the wide range of sustainable locations across the District. To achieve this end, a number of criteria are contained within Policy CS.15, which includes criteria D regarding Local Service Villages (LSV). LSVs are broken into four categories based on an assessment of the presence and comparative quality of three key services[2], taken together with the existing size of the settlement. In recognition of its limited range of services and facilities, Long Marston is designated as a category 4 LSV, the lowest category which contains 20 villages.

10. Policy CS.15D states that the scale of housing development appropriate for each village is specified in Policy CS.16. Policy CS.16 states that approximately 2000 homes will be delivered by the LSV category, 400 of which will be delivered via category 4 LSVs, with no more than 8% (32 homes) being provided in any category 4 LSV. It is common ground that more than 32 homes have been built at Long Marston. Based on the Council's figures, 80 homes will be delivered at Long Marston, 52 of which have been already constructed. The proposal would increase the total number of homes delivered in Long Marston to 95.

11. Policies CS.15D and AS.10 state that development within LSVs will take place through small scale schemes on unidentified but suitable sites within built-up area boundaries or otherwise within their physical confines. To inform the emerging Site Allocations Plan, the Council's Leader Panel Advisory Group recently approved a draft built-up area boundary for Long Marston. The appeal site would lie outside of this draft boundary. However the boundary as proposed has not been subject to public consultation and I note that the emerging Site Allocations Plan is at an early stage of preparation. Thus, in the light of paragraph 216 of the Framework, I afford the draft built-up boundary proposed for Long Marston limited weight. Similarly, as the Neighbourhood Plan is at an early stage of preparation, I afford it limited weight.

12. The parties disagree on whether the proposal would be within the physical confines of the settlement. In my view the proposal would be seen as part of the wider permitted residential scheme and I agree with the appellants that the

[2] Policy CS.15, section 5.1.9. The three key services relate to general store, primary school, and public transport.

proposal would achieve a logical rounding off of the built-up area. In addition the Council raise no objection regarding the visual effect of the proposal on the surrounding area. On this basis I am satisfied that the proposal would be within the physical confines of the settlement.

13. The explanatory text accompanying Policy CS.15 at section 5.1.8 bullet point 3 outlines that an allowance for small-scale development at LSVs has been made to meet community needs, provide some scope for new households, and to help support the services LSVs provide. However, the CS does not define 'small-scale'. In the Council's view, 'small-scale' should include consideration of the individual settlement in question, with Long Marston containing 215 dwellings.

14. In isolation, based on the Council's calculations, the proposal would result in a 6.9% increase in dwellings at Long Marston. Based on the appellants' calculations the proposal would result in a 6% increase in population at the village. Both figures appear modest. However I agree with the Council that the proposal would form part of a larger site that incorporates phases 1 and 2 of the development. I also note the combined number of homes already delivered at Long Marston. In addition, the 15 dwellings proposed would represent nearly half of the housing requirement for this category 4 LSV as set by Policy CS.16.

15. A recent appeal decision[3] at Fenny Compton is cited by the Council wherein the Inspector considered that a proposal comprising 25 dwellings at a category 2 LSV would not be a small-scale scheme. The Inspector's conclusion also took into account the amount of housing that had already obtained planning permission within Fenny Compton. Based on Policy CS.15D, category 2 LSVs have a greater presence and quality of key services and are larger in size, as appears to be the case with the appeal at Fenny Compton.

16. The appeal decision at Fenny Compton reinforces my view that an additional 15 dwellings at this category 4 LSV would not comprise a small scale scheme. Furthermore, in conjunction with schemes already permitted within the village, the proposal would result in an appreciable increase in the size of the village further beyond the requirement set by Policy CS.16.

17. The appellants consider that the Council's view on what comprises 'small-scale' would compromise the delivery of market and affordable housing and infrastructure in LSVs. However no substantive evidence is before me to challenge the amount of market or affordable housing being delivered by the CS. In addition, as the Council intend to adopt its Community Infrastructure Levy (CIL) Schedule by early December 2017, developments of 1 dwelling or more would be CIL liable. Consequently the Council's approach would not prevent the delivery of infrastructure at LSVs.

18. Moreover, the assessment of whether a proposal would comprise a small-scale scheme would be a matter to judge based on the facts of the case at the time, taking into account the Council's housing requirement and the characteristics and function of the relevant settlement. Thus sufficient mechanisms are in place to ensure that affordable housing and infrastructure are delivered across the range of LSVs within the district. Taking the above into account, the proposal would not comprise small-scale development.

[3] APP/J3720/W/16/3158740

19. In reaching this view I have taken into account larger scale residential applications approved[4] by the Council in the vicinity of the site. However as these applications were approved before the CS was adopted, different weight was afforded to its policies and thus the applications were determined in a different policy context. Moreover, as set out above, the dwellings proposed in conjunction with the cited approved applications is a determinative factor.

20. I also note that Policy CS.15 requires all development at existing settlements to be assessed against a list of principles. I agree that the proposal would meet a number of these principles, one of which relates to the scale of development being appropriate to its immediate surroundings. However the proposal would not be consistent with the overall scale of development identified by the first principle within Policy CS.16.

21. I have taken into account the cited appeal[5] at Bishops Itchington which was allowed despite being contrary to Policy CS.16. However at that time the Council were unable to demonstrate a five year housing land supply and the CS was not adopted. These circumstances do not apply to the proposal before me. In addition, it has been put to me that housing delivery at other service villages might not result in 400 homes being delivered across category 4 LSVs. However, based on the Council's figures[6], 318 houses have already been delivered across category 4 LSVs to date and I note that 14 years remain in the CS plan period.

22. By providing bungalow accommodation for the elderly, the proposal would comply with Policy CS.19 and address issues set out within its explanatory text. Furthermore the Council acknowledge that there is a district wide elderly population and need[7] for bungalows. However no substantive evidence is before me to indicates that the dismissal of this appeal would result in this need being unmet within the CS plan period. With 14 years remaining in the CS plan period and a five year housing land supply in place, I see no substantive reason why this aspect of the proposal should override its conflict with Policies CS.15, CS.16 and AS.10.

23. Taking the above into account, the proposal would fail to recognise the distinctive function of this category 4 LSV. The proposed 15 dwellings would result in a total of 95 dwellings being permitted at Long Marston, a figure significantly in excess of the 32 dwelling requirement set by Policy CS.16. As a result the proposal would be contrary to Policy CS.15 which seeks to ensure that development within the district is distributed on a pattern of balanced dispersal over the plan period.

24. Therefore the proposal would not accord with development plan policies regarding housing delivery. Consequently the proposal would be contrary to CS policies CS.15, CS.16 and AS.10 the requirements of which are outlined above.

Planning Obligation

25. The submitted UU would secure on-site affordable housing and financial contributions towards highway infrastructure, sustainability packs for future

[4] Which include Council refs: 14/01676/OUT, 14/00251/OUT and 14/00203/OUT
[5] APP/J3720/W/15/3133319
[6] At section 6.19 of the Council's Statement of Case.
[7] At section 2.4 of the SOCG and sections 6.22-6.27 of the Council's Statement of Case.

residents and public open space. The UU would also ensure future residents of the market dwellings are aged 55 or above. Based on the justification provided by the Council in its CIL Regulations Compliance Statement, I am satisfied the UU meets the relevant statutory tests. The weight afforded to the measures within the UU is set out below.

Overall Balance

26. Section 38 (6) of the Planning and Compulsory Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Based on my reasoning above the proposal would conflict with CS Policies CS.15, CS.16 and AS.10 regarding housing delivery.

27. A number of material considerations are cited in support of the proposal that, in the light of the three dimensions[8] of sustainable development defined by the Framework, the appellants consider determinatively weigh in favour of the proposal.

28. Social benefits would arise via the proposed market and social rented affordable housing. The Council consider that phases 1 and 2 adjoining the site would meet local affordable housing need in the area, with reference to the recent Local Housing Need Analysis Data submitted at the hearing. In any event, I note that the Council's District Housing Enabler states that the proposed social rented bungalows would meet an identified district need for older person accommodation. In this respect the proposal would meet the requirements of Policy CS.18, paragraph 50 of the Framework, and as stated above, the requirements of Policy CS.19.

29. In addition, a number of letters have been submitted in support of the proposal which includes some support from local residents and the local ward member, as set out in the Council's Committee Report. These social benefits combined attract significant weight in favour of the proposal.

30. Economic benefits would arise via the support of the proposal both directly and indirectly to construction employment. The Council within its Committee Report raise no concern regarding the access of future occupants to services and facilities.

31. The submitted UU would also secure two bus stops within the vicinity of the site which would also bring benefit the wider community. The sustainability packs secured via the UU could also bring some, albeit minor benefit to sustainable energy and travel promotion in the area. In this light the proposal would support nearby community services and facilities and help maintain the vitality of rural settlements as set out at paragraph 55 of the Framework.

32. As recognised by the Planning Practice Guidance, support to independent living for the elderly can help reduce costs for health and social services. Whilst the proposal would also generate a New Homes Bonus and Council tax revenue, the Council contend these factors should be seen as incentives to provide housing. This aside, the noted economic benefits attract some weight in favour of the appeal.

[8] Economic, social and environmental.

33. Environmental benefits are associated with the proposal which include the use of the on site attenuation feature by amphibians. The proposed landscape buffer to the west of the site would also provide foraging opportunities for wildlife. In addition, the submitted Landscape Visual Assessment anticipates that the proposal would have a minor beneficial effect by year 10. These environmental benefits attract moderate favourable weight.

34. It is contended by the appellants that the site is unsuitable for agricultural use and that should the appeal fail, the site would be vacant. However, based on what I saw during my site visit, it does not seem likely that the site is unsuitable for agricultural use. Furthermore, as the Council explained at the hearing, the site could be used for other purposes, such as a community orchard. Consequently I afford this fall-back position limited weight.

35. No harm has been identified on technical grounds which include highway safety, to the setting of nearby listed buildings, flooding and neighbouring living conditions. In addition, the submitted UU would secure mitigation via financial contributions to off-site public open space. However an absence of harm and the mitigation measures proposed can only be considered as neutral factors in the planning balance.

36. Combined, the benefits identified above attract significant weight in favour of the appeal. However, the primacy of the development plan is established in Section 38 (6) of the Planning and Compulsory Act 2004 and at paragraph 2 of the Framework.

37. Moreover, as one of the Framework's core planning principles, paragraph 17 bullet identifies that planning should be genuinely plan led, empowering local people to shape their surroundings and to ensure that decisions on planning applications can be made with a high degree of predictability and efficiency.

38. In this context, the combined weight afforded to the benefits associated with the proposal would be outweighed by the considerable weight afforded to its conflict with the CS as a whole and with the Framework's core planning principle that planning should be genuinely plan led. It is on this basis and for the reasons given above that the appeal must fail.

Other Matters

39. With reference to a number of appeal decisions[9], it is put to me that the need to demonstrate a five year housing land supply is a minimum requirement and should not be a restrictive factor. Reference is also made to a recovered Secretary of State decision[10] and an appeal decision at Berkeley[11] wherein substantial weight was given to the provision of social and market housing despite evidence of a five year housing land supply, no indication of an affordable housing shortfall, and conflict with a recently approved development plan.

40. However, the circumstances in the cited decisions are not comparable and involve different local planning policies, different proposals and thus different factors to weigh in the planning balance. Consequently I afford limited weight to these cited decisions. In any event, as set out above, I have afforded

[9] APP/D0840/A/13/2209757, APP/A0665/A/14/226994, and APP/L3245/W/15/3137161
[10] APP/K3415/A/14/2224354
[11] APP/C1625/W/15/3133335

significant weight to the market and affordable housing associated with the proposal.

41. The appellants also state that the Council's future ability to demonstrate a five year housing land supply and meet affordable housing need is dependent on the delivery of larger sites. However, the Council can demonstrate a five year housing land supply and no substantive evidence is before me to conclude that the CS is not meeting the district wide affordable housing need.

Conclusion

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

B Bowker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Guy Wakefield	Hunter Page Planning
Christopher Lewis	Hunter Page Planning
Nick Rawlings	Bloor Homes

FOR THE LOCAL PLANNING AUTHORITY:

Louise Koelman	Senior Planner
John Careford	Policy Manager
Ross Chambers	Solicitor

INTERESTED PARTIES:

Noel Davis	Marston Sicca Parish Council
Debbie Woodliffe	Marston Sicca Parish Council

DOCUMENTS SUBMITTED AT THE HEARING:

1. Draft Planning Obligation submitted by Bloor Homes Western.
2. Core Strategy Policy CS.18 Housing Mix and Type.
3. Community Infrastructure Levy Additional Information Requirement Form.
4. Local Housing Need Data Analysis as at 25 September 2017, submitted by the Council.
5. Comments of the District Housing Enabler, submitted by the appellant.

DOCUMENTS SUBMITTED AFTER THE HEARING:

1. A signed, dated and completed Planning Obligation submitted by Bloor Homes Western.
2. A planning condition removing permitted development rights, submitted without prejudice to its case by the Council.
3. A plan showing the location of two grade II listed buildings known as 'Little Thatch' and 'Jasmine Cottage'.