
Appeal Decision

Site visit made on 25 September 2018

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2018

Appeal Ref: APP/M0933/W/18/3204492

Railway Yard, Moss Lane, Holme LA6 1RH

- 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 Robert Emmett against the decision of South Lakeland District Council.
 - The application Ref SL/2018/0134, dated 12 February 2018, was refused by notice dated 12 April 2018.
 - The development proposed is an outline application for up to 9 dwellings with all matters reserved apart from the proposed modifications to the existing access off Moss Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access. Indicative plans have been submitted. These have formed part of my consideration of this appeal.
3. The names provided on the planning application and appeal forms differ, but the appellant has confirmed that they are the same person. I have used the appellant's full name from the appeal form.
4. A signed Unilateral Undertaking (UU) has been submitted by the appellant. This provides for affordable housing rented housing or intermediate housing. I shall turn to this later in my decision.

Main Issues

5. The main issues are: (i) whether the proposal would accord with development plan policies relating to the location of development in the District; (ii) whether the proposal would minimise the need to travel and provide a choice of sustainable transport modes for all sections of the community; and (iii) whether the proposal makes adequate provision for affordable housing.

Reasons

Location

6. Holme is defined as a Local Service Centre in Policy CS1.2 of the South Lakeland Local Development Framework Core Strategy (CS). Development should accord with a sequential approach which first uses existing buildings

- within settlements, and previously developed land within settlements (CS Policy CS1.1). Approximately 21% of new housing and employment development will be in the network of Local Service Centres according to CS Policy CS1.2.
7. Policy LA1.1 and the Policies Map of the South Lakeland Local Plan Land Allocations Development Plan Document (DPD) fix the development boundary of Holme so that new homes and workplaces are delivered in sustainable locations and to protect the character of the surrounding landscape. The appeal site is largely within the settlement boundary of Holme and it is part of the local employment allocation (Land at Milnthorpe Road) in DPD Policy LA1.8. This allocation is 2.58 hectares in size, and it is suitable for B1 (Business) and B2 (General Industry) uses. It is not allocated for alternative uses such as residential. Thus, the proposal conflicts with DPD Policy LA1.8, which seeks to ensure that a sufficient supply of employment land and premises is available to meet local employment needs and promote new business formation.
 8. While the appellant contends that the loss of this employment site would not prejudice the delivery of employment land across the District, CS Policy 7.1 states that due to the relative lack of unconstrained and available sites in the District, it is necessary to strongly enforce policies aimed at safeguarding and maintaining the best employment site from redevelopment for other uses. I recognise that the CS was adopted in 2010, and the Regional Spatial Strategy has been revoked, but CS Policy 7.1 and DPD Policy LA1.8 are broadly consistent with the National Planning Policy Framework (the Framework) as they seek to ensure the District has enough employment land provision.
 9. However, CS Policy 7.1 does allow for alternative uses to be considered. I note that no planning applications have come forward for the Milnthorpe Road site since the DPD's adoption in December 2013, and development on employment sites in the District has been fairly low, but DPD Policy LA1.1 sets the development boundaries for the District's development needs until 2025.
 10. Despite this, the appellant argues that limited weight should be attached to the scheme's conflict with the development plan. The Milnthorpe Road allocation is split between three landowners, one of whom is the appellant, who purchased the site in 2006 for £350,000. The appeal site has been marketed online by two estate agents between 2011 and September 2016. The formative years were, however, before the adoption of the DPD. While I believe the property was advertised monthly in various property supplements and through the display of on-site marketing, no substantive evidence of this is before me.
 11. The Council's Delegated Report indicates that the appeal site was offered for sale at £400,000 and £600,000 per hectare. The pricing structure was set by the appellant's previous agents, but there is no evidence detailing the basis for these prices. Vandalism of the buildings on the site seems to have resulted in the price being reduced to a combined price of £250,000 or at £150,000 for the land and £100,000 for the buildings. The advert, which applies to the period between May 2016 and September 2016, indicates that the site may be let. I am, however, unclear whether the property was advertised as 'for sale or to let as a whole or in parts' at £200,000 as suggested by the appellant. This is the value the Council considers commercial property in the District ought to be marketed at, based on their experience of employment transactions for commercial land and buildings in the District.
 12. Given the apparent lack interest at the higher asking prices, it seems prudent

to align the asking price with the District. It is also unclear if there has been any interest in the site since September 2016 when the property was withdrawn from the market. There is also no substantive evidence either way to confirm the position of the other two landowners’.

13. I am not satisfied that the appeal site’s employment allocation has been demonstrated as being uneconomical, severely constrained or otherwise unavailable for future employment use. Even if the site is only a small part of the overall quantum of employment land allocated in the District, CS Policy 7.1 seeks to maintain a rolling provision of employment land that is readily available for development. Although an alternative use of the land is advanced, and the Framework does seek to boost significantly the supply of housing, the evidence does not suggest that there is a high housing demand in the District at this time to warrant support of the proposal in this regard. It would also be for the Council to review whether the employment allocation remains appropriate and not this appeal, which relates to part of a single employment site. I note that the electrical supply is inadequate for a commercial workshop and a new supply would need to be installed at a cost. This issue would arise irrespective of an employment or residential use.
14. A small section of the appeal site is outside the settlement boundary, and is therefore in the countryside. The land is previously developed land and it is next to the settlement boundary for Holme and the employment allocation. Hence, the land is well located in relation to housing, jobs, other services and infrastructure. It is, however, at the bottom of the Council’s sequential approach to development. I have also found the appeal scheme, which does consist of a larger site, to result in harm for the reasons set out above. The handful of dwellings to the west does not change this harm.
15. For these reasons, I conclude, on this issue that the proposal would not accord with development plan policies relating to the location of development in the District. The proposal would conflict with DPD Policy LA1.8 and CS Policies CS1.1, CS1.2 and CS7.1; which jointly seek proposals to accord with a sequential approach to development; and ensure that a sufficient supply of employment land and premises is available to meet local employment needs and promote new business formation by safeguarding and maintaining the best employment sites from redevelopment for other uses.

Minimise the need to travel

16. Despite the site’s location, there is still a need through CS Policy CS1.1 to wherever possible minimise the need to travel and provide a choice of sustainable transport modes of all sections of the community, including the provision of cycling and pedestrian infrastructure to encourage a shift in travel behaviour. Holme has a public house, a post office, a convenience store, a church, a primary school, leisure facilities and bus stops.
17. Evidence points to a negligible trip generation, but journeys to and from the site to the centre of Holme would use the narrow single track Moss Lane. The lane is not lit and does not have any pedestrian footways until the junction of Moss Lane and Station Road/Duke Street. The lane passes over a bridge over Holme Beck, which extends between the lane and a grass verge. A hedgerow is on the north side of the lane, which is subject of a 30 mph speed limit.
18. While the facilities and services in Holme are within acceptable walking and

cycling distance, future occupants would need to share Moss Lane with other road users, such as vehicles, cyclists and pedestrians. The lane does not offer any passing points and future occupants' walking or cycling on Moss Lane would need to use the grass verge to avoid conflict with vehicles. The journey would also not appeal to everyone, especially during the hours of darkness, inclement weather, or if future occupants have disabilities. The lack of a footway and street lighting on Moss Lane would reduce the choice of sustainable transport modes for all sections of the community even though the journey time is fairly short. Thus, journeys are more likely to be made by car.

19. I agree that the appeal scheme would improve the existing vehicular access and the provision of pedestrian footways at the site's entrance, but even with the imposition of planning conditions, this does not outweigh the scheme's inability to encourage a shift in travel behaviour.
20. I conclude, on this issue, that the proposal would conflict with CS Policy CS1.1 as it would not minimise the need to travel and provide a choice of sustainable transport modes for all sections of the community, including the provision of cycling and pedestrian infrastructure to encourage a shift in travel behaviour.

Affordable housing

21. Framework paragraph 54 states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition, provided the tests set out in Framework paragraph 56 are met. These are the same tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL).
22. CS Policy CS6.3 states that planning permission for the erection of new dwellings will be permitted provided that the scheme provides local affordable housing on all schemes of three or more dwellings outside of the Principal/Key Service Centres, with no less than 35% of the total number of dwellings proposed being affordable. The parties agree that the site is in a designated rural area. Thus, noting Framework paragraph 63, affordable housing provision can be sought for residential developments that are not major developments.
23. CS paragraph 7.12 explains that there is an acute need for affordable housing due to the gap between house prices, average income, and the demand for second homes. To address this, the majority of developments ought to contribute towards affordable housing provision. The UU submitted would provide for no less than 3 no. (33%) affordable houses in accordance with the Framework's definition of affordable housing. The properties would be two or three bedroom units with private rear amenity space.
24. There seems to be a need for the contribution sought by the Council that satisfies the 3 tests in CIL Regulation 122 and Framework paragraph 56. Yet, the UU has not been dated and the plans are not signed. The UU is therefore incomplete and could not take effect. Hence, it carries no weight. No planning condition is also before me to secure the affordable housing needed. On this issue, I conclude that the provision of affordable housing does not weigh in favour of the appeal scheme as conflict would occur with CS Policy CS6.3.

Other matters

25. I agree with the appellant that the proposal would not, subject to planning conditions, result in harm to the landscape, cause flooding, or be subject to

noise and ground contamination. While the consideration of landscaping would be part of any reserved matters application, I recognise that the site could be developed for the quantum of houses proposed subject to further details coming forward if I were minded to allow the appeal. I note that the appeal scheme follows an earlier planning application which was withdrawn (Ref: SL/2017/0255), but I have considered the appeal on its planning merits.

Conclusion

26. The proposal would result in nine extra residential properties which would contribute towards the District's supply and mix of housing, and bring modest social and economic benefits. Development of the site would also bring the land back into use.
27. However, the appellant accepts that the Council can demonstrate a five year supply of deliverable housing sites. Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, I have found that the appeal scheme conflicts with the development plan on the three main issues, and there are no relevant considerations that indicate a decision other than in accordance with the development plan should be taken.
28. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR