The Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2019

by Julia Gregory BSc(Hons) BTP MRTPI MCMI

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

Decision date: 14 November 2019

Appeal Ref: APP/B3030/W/19/3234832
Land to rear of Rose Cottage, Main Street, North Muskham, NG23 6ER

- 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 Ian Whitehead against the decision of Newark & Sherwood District Council.
- The application Ref 19/00688/OUTM, dated 4 April 2019, was refused by notice dated 27 June 2019.
- The development proposed is outline application for proposed residential development with all items other than access as reserved matters.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Application plan 18/2170/002E includes the words "Open Market Housing" in brackets under the words "Proposed Residential Development" in the project description. Furthermore, an email from the appellant to the Council dated 10 June 2019 confirms that there is no affordable housing to be provided as part of the application. The appellant has not updated the Design and Access statement which still includes references to affordable housing. The appellant has stated that the proposal is to provide open market housing to satisfy the identified need confirmed in the North Muskham Housing Needs Survey.

3. As part of the appeal the appellant has submitted a S106 Unilateral Undertaking (UU). This makes provision for the payment of £1,384 per dwelling for community facilities before the commencement of development, and not to occupy the development without that contribution. It also specifies that at least 10 days notice of commencement should be given and no operational development should take place on flood zone 2 land. The Council has no comments to make on the UU. I will return to the UU later.

Main Issues

4. The main issues are:

- whether the appeal site would be a suitable location for the development, having regard to the spatial strategy for the area, the National Planning Policy Framework (the Framework), and the effect on the character and appearance of the countryside;

- whether the development would comply with the Framework in respect of development in areas at risk of flooding; and
- whether adequate provision would be made for public open space and community facilities.

Reasons

Location of development

5. Newark and Sherwood Amended Core Strategy (CS) Spatial Policy 3 identifies that new development should be in villages which have sustainable access to Newark Urban Area, Service Centres or Principal Villages that have a range of local services themselves which address day to day needs. New development should be appropriate to the proposed location and small scale in nature. New development should not have a detrimental impact on the character of the location or its landscape setting. The countryside will be protected.

6. Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document (Allocations DPD) policy DM8 advises that development away from the main built up areas of villages, in the open countryside, will be strictly controlled.

7. North Muskham is a rural village. The dwellings would use an improved existing access but would be sited on land to the rear of Rose Cottage and its outbuildings. Although it has not been disputed that there has in the not too distant past been horticultural use of the land with some buildings, there is now no sign of any past buildings on the land. Insufficient information has been provided about the planning permission that has lapsed for a single dwelling on the land to be able to determine its relevance, if any, to the appeal proposal, although I note that the Council has advised that this dwelling was on part of the site abutting Main Street unlike the appeal proposal.

8. Although I understand that in the past there has been a defined settlement limit, and the site was outside the settlement, there is now no settlement limit defined for North Muskham. Therefore, it is a matter of planning judgement whether the site is or is not within the settlement. The SHLAA information provided by the appellant is I understand superseded. Even if it were not, it supports the view that the site is outside but adjoining the boundary of the village.

9. Given that there is no development directly to the east or to the north of the housing plots, just fields, that the site comprises grassland with hedgerows and that the Main Street joins the A1 to the north east, with development in that direction limited, I consider that the dwellings would not be located within the settlement.

10. I acknowledge that there is significant housing development bordering the land to the south which is part of the main built up area of the village and that this also extends further to the east, but these dwellings would extend the village and would therefore be away from its main built up area. Also, there is no reason why the village should extend to meet an existing line of development to the south east. The service station with hotel facilities on the A1 is some distance away and is poorly related to the village. It relates to the trunk road in its function rather than to North Muskham.

11. Whilst some evidence has been submitted about housing need in North Muskham, I understand that some dwellings have been granted planning permission since that report was prepared and that it is due to be reviewed in 2020. Furthermore, I have insufficient information to be able to conclude on those matters. These are not put forward as affordable housing.

12. The dwellings would not be isolated in terms of paragraph 79 of the Framework because of the close proximity of some existing buildings. For strategic reasons new build open market housing is resisted by the development plan. The CS was adopted very recently, only in March 2019, and its strategic approach to the location of development is consistent with the Framework. The CS policy is not out of date.

13. The site has no specific landscape designation protection. Landscape features are limited to hedgerows with some trees. It is a small field which accords with characteristic visual features of the Nottinghamshire Trent Washlands Policy Zone 11 which has characteristic features including a flat, large scale intensive arable landscape including smaller field sizes adjacent to villages with pasture and fragmentation by busy roads.

14. I acknowledge that hedgerows including trees could be retained but the development plan seeks to protect the countryside from development. The dwellings would introduce built development where there is currently an undeveloped field. The layout would be reserved, as would the design of the dwellings. Nonetheless, the indicative site layout shows an intensity of development that would be dissimilar to those to the south and with a layout that would not reflect its rural setting or the traditional vernacular dwellings to the frontage.

15. I conclude that the development would harm the character and appearance of the area and would be contrary to the CS and allocations DPD which both seek to restrict development in the countryside.

Flooding

16. Most of the site is within flood zone 1, but part of the site is within flood zone 2. CS Core Policy 10, Allocations DPD policy DM5 and the Framework seek to direct development away from areas at highest risk of flooding, which is to avoid flood risk to people and property. CS policy Core Policy 10 and Planning Practice Guidance (PPG) seek sequential assessments for development on flood zone 2 land to ensure that sites with lower risk of flooding are developed first. Notwithstanding, the submitted Flood Risk assessment, no such sequential assessment has been made. The indication is that there is much land within flood zone 2 in North Muskham but this does not amount to a sequential analysis.

17. The dwellings and operational developments could be located just outside of flood zone 2. This has been controlled by the recently submitted UU. I am concerned however that this is an outline application with layout and design not for consideration and that it involves development which is classified in Planning Practice Guidance as more vulnerable. Furthermore, restricting operational development in gardens would thwart the reasonable expectations of home owners to exercise permitted development rights. Also there is a possibility of waterlogged gardens, limiting their usefulness at times of flooding.

18. I conclude that the development would fail to comply with CS Core Policy 9 requiring sustainable design and CS Core Policy 10 and Allocations DPD policy DM5, the Framework and the PPG which all seek to direct development away from areas at the highest risk of flooding.

Contributions

19. The Council has sought a community facility contribution for £1384.07 plus indexation per dwelling based on its Developer contributions and Planning Obligations Supplementary Planning Document (SPD). The UU satisfactorily provides for this.

20. Open space is required to be provided by the SPD. That has been shown indicatively on the layout plan and maintenance could be resolved at detailed stage.

21. I consider that the contribution provided for in the UU would be justified based on CS Spatial Policy 6, Allocations DPD Policy DM3 and the details in the SPD. It would comply with the Community Infrastructure Levy Regulations.

Other matters

22. Concerns have been expressed in representations about highway safety, the limited availability of public transport and pedestrian access. A new footway would be provided in Main Street and the Highway Authority and Highway Agency have not objected to the proposal, subject to conditions. I acknowledge that there are limited facilities in the local area, but this is only a small development.

23. The siting and design of dwellings is not for consideration and these could be controlled to ensure that living conditions would not be harmed. Amended plans were submitted which appear to resolve land ownership issues on the boundary.

Conclusions

24. Notwithstanding my conclusions in relation to public open space and community facilities, these do not outweigh my concerns in respect of the first two main issues. For the reasons given above, I conclude that the appeal should be dismissed.

Julia Gregory

Planning Inspector