
Appeal Decision

Hearing Held on 12 November 2019

Site visit made on 12 November 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 9 December 2019

Appeal Ref: APP/W0530/W/18/3209856

Land west of Cambridge Road, Melbourn, Cambs SG8 6HA

- 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 Countryside Properties PLC against the decision of South Cambridgeshire District Council.
 - The application Ref S/2141/17/OL, dated 14 June 2017, was refused by notice dated 23 February 2018.
 - The development proposed is for outline planning permission for the erection of up to 160 residential dwellings, including affordable housing provision, public open space and associated access, infrastructure and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an outline application with all matters reserved apart from access.
3. The Council refused the application for reasons relating to its prejudicial effects on the emerging Local Plan and in relation to the effects of the proposal on nearby SSSIs. Since then, discussion with Natural England has resulted in agreement being reached regarding the proposal in relation to wildlife and the control of related matters by conditions/obligations. In addition, the Council has also now adopted its Local Plan. In the light of these changes, the Council has sought to issue a revised decision which objects to the proposal in relation to its location outside the defined development boundary of the settlement. The appellant accepts these matters and both main parties' cases address this and other issues.

Main Issues

4. The main issues in this appeal are:
 - The effects of the proposal in relation to its location and related Local Plan policies
 - Whether the Council can demonstrate a suitable supply of housing land

Reasons

The effects of the proposal in relation to its location related Local Plan policies

5. The appeal site is formed by open fields located to the north east of Melbourn. The site sits outside the defined 'development framework', just beyond its edge. The development framework identifies the boundary of the settlement.
6. Policy S/6 of the Adopted South Cambridgeshire Local Plan 2018 (LP) states, amongst other things, that the need for more jobs and homes will be met as far as possible within a hierarchy of locations, being a) on the edge of Cambridge, b) at new settlements and c) in the rural area at Rural Centres and Minor Rural Centres. The village of Melbourn is identified as a Minor Rural Centre in Policy S/9 of the LP. The appellant suggests that as the appeal site is just outside the edge of the village boundary, it can be considered as being "at" this Minor Rural Centre. The Council argues that the words of Policy S/6 means within the village boundary. In my judgement, taking account of the intention of the policy and also taken with how Policy S/7 is worded, I favour the Council's interpretation. Therefore, I find that the proposal is contrary to this relevant section of Policy S/6. Policy S/6 also adds that development in the rural area will be limited, with allocations for jobs and housing focused on Rural centres and Minor Rural Centres, and rural settlement policies providing for windfall development for different categories of village consistent with the level of local service provision and quality of public transport.
7. Policy S/7 of the LP relates to Development Frameworks and states that the development or redevelopment of unallocated sites within the boundary will be permitted subject to certain criteria. Outside the boundaries, it states that only allocations in Neighbourhood Plans or development for appropriate countryside uses, or other uses supported by other policies, will be permitted. The proposal is clearly outside the development Framework for Melbourn and is not for one of the specified or countryside uses. Therefore, I identify clear conflict with Policy S/7. The supporting text for the policy indicates that part of its aim is to protect the countryside from gradual encroachment on the edges of villages. This would clearly be the case with the proposed development.
8. Policy S/9 relates to Minor Rural Centres and states that residential development of up to an indicative maximum of 30 dwellings will be permitted within the village boundaries. The supporting text of the policy states that Minor Rural Centres have lower levels of services, facilities and employment than the Rural Centres but greater than other villages. It adds that within the Minor Rural Centres there is scope in principle, for larger scale windfall developments, within the village framework. It states that the overall scale of development should be restricted in recognition of the more limited services and so an indicative maximum of 30 is used as a guide. Notwithstanding the fact that the appeal site is outside the Development Framework, the proposed number of dwellings at 160 is significantly greater than the maximum guide of 30. Even taking account of the fact that Melbourn is considered to provide a good level of services for a Minor Rural Centre, I consider that the proposal would be contrary to this aspect of Policy S/9.

Whether the Council can demonstrate a suitable supply of housing land

9. The Council considers that it can demonstrate a supply of housing sites equivalent to 5.3 years and sets this out in the Greater Cambridge Housing Trajectory and Five Year Housing Land Supply- Main Document, published on 1 November 2019 (I shall refer to this as the Main Document). There is no dispute that the housing requirement 2019/2024 is 10,366. The appellant makes specific criticisms of the assessment of the delivery of a number of certain sites within the Main Document. The appellant concludes that the housing supply figure should be 4.61 years.
10. In relation to what should be considered as “deliverable” the National Planning Policy Framework (NPPF) defines this within its glossary. It states that;
- “To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*
- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”*
11. The Planning Practice Guidance (PPG) adds that such relevant evidence may include, the current planning status, firm progress towards the submission of an application, firm progress with site assessment work or clear relevant information about site viability, ownership constraints or infrastructure provision. A theme which runs through the appellant’s case is that the Council use an unjustifiably optimistic delivery rate on the sites that it assesses. The Council points out that for the strategic sites, figures were published for the examination of the Local Plan. The Local Plan Inspectors concluded that the Council’s assessment of supply was reasonable and evidence-based. In addition, the evidence submitted indicates that there was consensus in the hearing statements at the Local Plan examination that the average annual completion rate at the Cambourne development over the 15 years from 1999 to 2014 was 235 dwellings per annum and that an average rate of completions for new settlements of 250 dwellings would be justified. A lower rate of completions of 150 per annum was set out for Waterbeach New Town and Bourn Airfield New Village and the Inspector assessed that more modest delivery to be correct, specifically for those sites, taking account of the circumstances of those sites. It seems to me that the evidence submitted to, discussed and incorporated into the Local Plan, which was found to be ‘sound’ would have been comprehensive and detailed. It was agreed that the local circumstances, backed up by local data, led to the consensus conclusion that higher than national average completion rates were found and could be expected within the locality. Although I have taken account of the appellant’s views, I consider that the generality of the completion rates used by the Council are justified and I shall take that as my starting point. I consider that to do otherwise would call into question the justification underpinning the Local

Plan in this respect, which was clearly based on a full and comprehensive consideration of the available data.

12. There are 6 sites that the appellant seeks to dispute in terms of the delivery of housing and I take each of these in turn but I start with an acceptance of the general delivery rate set out above.

Ridgeons, Cromwell Road

13. The site now has full planning permission for 295 homes, with the S106 Agreement being completed, on 16 October 2019. The site is within the City of Cambridge and is being brought forward in partnership by the City Council and another party. The Council's figures indicate completion of: 52 in 2012/22; 122 in 2022/23 and 121 in 2023/24, that is the entirety of the development within the 5 years. The site is the subject of a detailed questionnaire filled in by the developer and issued by the Council. The delivery rates are those expected by the developer and take account of the fact that the site has been cleared and there appears to be no impediment to delivery. The Council indicates that, as the development is for a mixture of housing types, is in a good location within Cambridge where demand is considered to be high and is owned by the City Council, the delivery rates are realistic.
14. The appellant compares the delivery rates to national averages and sees no reason to depart significantly from these. I have set out my general approach to this point above and so do not repeat it here, save to say that the Council's figures appear justifiable in my view in general and I consider that the delivery expected by them on this site appears realistic in this context. I consider that the Council's evidence supports the delivery rates and timings and accept their evidence in this respect.

Darwin Green

15. The site is allocated and has outline planning permission for 1,593 dwellings. Two parcels have reserved matters consent for 287 dwellings and at October 2019, 69 dwellings had been completed, 125 were under construction and 93 had not been started.
16. The appellant indicates that the site is within the control of one developer (who has 2 brands) and it is their common practice to not sell plots on to other builders. The same builders were developing a site at Trumpington Meadows where delivery rates were a maximum of 148 in one year. In addition, it was expected that overall completion would be 4 years later than initially anticipated. The Council indicates that delivery at Trumpington Meadows will have been influenced by competition at other nearby sites in the locality, delivering similar dwellings and that these will not affect delivery at Darwin Green. Furthermore, the developer at Darwin Green has set out in its questionnaire return that it expects delivery to achieve 200 per annum. By way of comparison, the Council indicates that the same developer provides a lower estimate for Trumpington Meadows and so suggests that they provide realistic figures. I consider that the Council's figures are realistic and justifiable in this respect.

Land north of Cherry Hinton

17. The site straddles the Cambridge City/South Cambridgeshire boundary and is allocated for a total of 1,200 dwellings. An outline application was submitted in

March 2018 and remains undetermined. The outstanding issue relates to an objection from the Environment Agency (EA) relating to groundwater contamination, and insufficient information being available to conclude on this matter. The Council appears confident that this issue can be resolved with EA and anticipates that it will be reported to the relevant committee in early 2020. In the meantime, negotiations on a S106 Agreement are underway and it is envisaged that this will be signed and planning permission issued shortly after the relevant committee meeting. The applicants anticipate that they will have appointed development partners by December 2020, reserved matters applications submitted by October 2021, approval by March 2022 and completion of the first dwellings by March 2023. The relocation of certain functions within the adjacent airport are being progressed in order that delivery of new homes is not prejudiced.

18. I consider that the suggested timings set out by the Council provides a realistic picture of expected delivery and can be considered as clear evidence that there is a realistic prospect of delivery within years 2022/23 and 2023/24.

Land north of Newmarket Road

19. The site is allocated for 1,300 dwellings and outline planning permission was approved in November 2016. The first reserved matters for 239 dwellings was approved in September 2019 and pre-application discussions are in progress for the next phase. Homes England funding has been secured in order to accelerate delivery and to enable infrastructure works for the development and to facilitate re-provision of certain facilities at the adjacent airport which would mitigate the noise impacts on residents. In addition, there is a S106 Agreement in place which requires that 50 dwellings to be completed to slab level by November 2020. In relation to the facilities at the adjacent airport, planning permission was granted for their relocation in November 2017 and all the pre-commencement conditions have been discharged. Construction of the aircraft engine ground running facility enclosure was completed in July 2019 and it was stated that it would be brought into use in November 2019.
20. The agents acting for the developer indicates that infrastructure works are underway and anticipates the first housing completions in 2020, with completion in 2028. The appellant doubts that a single builder would deliver at those rates but also accepts that plots may well be sold off to others. To counter this point, the Council state that they scrutinise the figures submitted by developers and in many instances will reduce them where they consider that the evidence does not support such a stance and it is notable that the figures set out for this site are below the figure of 250 per annum. Taking these factors into account, alongside the Local Plan agreed delivery figures, I consider that the Council's expected delivery of 110, 160, 225 and 210 for the 4 years running from 2020/21 to 2023/24 are realistic and supported by clear evidence, as set out.

Land north of Worts' Causeway

21. The site is allocated for 200 dwellings. The Council indicates that the owners have stated that an outline application is in preparation and expect it to be submitted in December 2019.
22. The development needs to be the subject of an Environmental Impact Assessment (EIA) and the Council confirmed that a scoping report was

submitted in October 2019. The appellant stated that it is likely that the Environmental statement is some way off as any necessary surveys would need to be undertaken in the Summer months. I consider that these matters raise doubts about the expected sequence of events as set out by the Council. I consider that there can be no certainty that the first completions would take place in 2022 and that completion would be done by 2025. In this instance, I consider that there is not sufficient evidence to be clear that housing will be delivered on the site within the timescales envisaged by the Council. Therefore, the expected delivery of 140 homes should be discounted from the assessment.

Waterbeach New Town

23. The site is allocated for 8,000 to 9,000 dwellings and outline planning permission for up to 6,500 dwellings and other matters was issued in September 2019. In parallel with consideration of the outline application work was undertaken on master-planning and design codes. A planning performance agreement for the planning application process is in place. The Council indicates that the developers are experienced at delivering large schemes with multiple house-builders. They anticipate 3 housebuilders within the first year of delivery (2021/2022) and 5 housebuilders thereafter.
24. The appellant doubts that sufficient infrastructure will be in place early in the development process to enable multiple housebuilders in the early years. However, the agent has advised that within its responses that the early delivery of infrastructure will allow 3 housebuilders to operate and deliver houses in 2021/22. The Council supports this view with figure for Phase 1 of the Northstowe development which is a major scheme of around 10,000 dwellings. I am satisfied that the matters set out above amount to the clear evidence that delivery will take place on the site as expected by the Council's figures.
25. Therefore, in summary, the only adjustment that I consider necessary is that the figure of 140 dwelling should be removed from the Council's figures. Whilst this would reduce the housing supply, it is insufficient to reduce it below a 5 years supply. Therefore, I conclude that the Council can demonstrate a suitable supply of housing land.

The Planning Balance and Conclusion

26. The proposal would bring about additional homes, with an element of affordable homes and this is recognised as a benefit. This would also offer some support to local construction jobs and new residents would spend locally. However, I have found clear breaches with policies S/6, S7 and S/9 of the recently adopted LP. Rather than these being categorised as 'technical' breaches, I consider them to be real and fundamental. In my judgement the benefits arising from the proposal are insufficient to outweigh the harm.
27. I have taken account of the contents of the S106 Agreement which was submitted at the Hearing. I note that virtually all of its contents were agreed. The one significant area of dispute arose around the justification for a secondary education contribution. The Agreement contains provision for varying contributions ranging from none, to the full amount requested by the County Council, plus an intermediate amount. I am satisfied that, had the appeal been allowed, I could have been satisfied that an option was available

to me so that this matter would not have prevented me from granting planning permission. In the event of my conclusions on other matters, it has not been necessary for me to arrive at a precise conclusion on this matter.

28. For the reasons set out above, the appeal is dismissed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

P Brown QC
G Kaddish
P Williams
A Child
S Elliott

FOR THE LOCAL PLANNING AUTHORITY:

D Edwards QC
A Burgess
J Nuttycambe
R Ward

INTERESTED PERSONS:

C Fitzsimons, County Council

DOCUMENTS

1. Completed S106 Agreement
2. Bundle of 3 tables...Appellant
3. Explanation and table of amended paragraph numbers...Council
4. Amended Main Document...1 November 2019