
Appeal Decision

Hearing Held on 14 January 2020

Site visit made on 14 January 2020

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2020

Appeal Ref: APP/A3010/W/19/3229877

Land West of Blyth Road, Harworth DN11 8NF

- 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 MLN (Land and Properties) Ltd against the decision of Bassetlaw District Council.
 - The application Ref 18/00903/OUT, dated 11 July 2018, was refused by notice dated 11 January 2019.
 - The development proposed is residential development for up to 199 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters other than access reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access.
3. A signed and completed Section 106 Agreement has been submitted by the appellant. This would secure contributions towards affordable housing and infrastructure provision and I return to this matter later.

Application for costs

4. An application for costs was made by MLN (Land and Properties) Ltd against the decision of Bassetlaw District Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is whether or not the proposed development would provide a suitable site for housing, having particular regard to the local and national planning policies relating to the location of new development in the District.

Reasons

6. The appeal site comprises an open agricultural field on the southern edge of the town of Harworth. Residential development is located to the north and north-west, open fields to the west and a former mineral railway line to the south with an industrial estate beyond. The site is bounded to the east by Blyth

Road and the former Harworth Colliery site which is being redeveloped for residential use further to the east of the site.

7. The Council's Spatial Strategy as set out in Policy CS1 of the Bassetlaw Core Strategy & Development Management Policies Development Plan Document 2011 (CSDMP), states that the distribution of new development in Bassetlaw will be in accordance with the aims of the settlement hierarchy. Harworth Bircotes is identified in Policies CS1 and CS4 of the CSDMP as a Main Regeneration Settlement with a significant potential for growth to support the regeneration opportunities in the town. Furthermore, until the adoption of the Site Allocations Development Plan Document (SADPD), development in the settlements identified in the hierarchy will be restricted to the area inside Development Boundaries, subject to certain identified exceptions.
8. These exceptions include that over the plan period, additional permissions may be granted where sites meet the affordable housing or community facilities exceptions criteria in Policies CS5-CS9 or where it is demonstrated, to the Council's satisfaction, that a development proposal will be of benefit in addressing a shortfall in the District's five-year housing supply; or delivering the Council's strategy for a specific settlement; or delivering new or improved facilities for the local community that have explicit community support.
9. Policy CS4 identifies that the Main Regeneration Settlement should accommodate at least 22% (1560 dwellings) of the District's housing requirement through existing permissions and allocations in the SADPD. Harworth Bircotes has a significant range of services and facilities and a significant potential for growth, including the former Harworth Colliery site that constitutes the largest single area of brownfield land in the District. Outline Planning Permission was granted for 996 dwellings on part of the former Colliery site in 2011¹. The CSDMP recognises that that this site is unlikely be fully developed during the plan period, which may necessitate greenfield releases to enable the achievement of step change required for the town where no appropriate sites exist within the development boundaries.
10. The Harworth and Bircotes Neighbourhood Development Plan 2015 (NP) recognises the significant opportunities and level of growth required to regenerate the town. Accordingly, Objective 1 of the NP is to redevelop the old Colliery site with a mixed use development to meet the future needs of the community, which is delivered through Policy 6 of the NP. The Colliery site is located immediately adjacent to the town centre and its redevelopment, in turn, supports Objective 2 of the NP to sustain and regenerate the Town Centre and to strengthen its role at the heart of the community.
11. The NP also recognises that over the Plan period, sites within the existing town will come forward for development. Such development would be in accordance with the Council's strategic aims for the distribution of housing as set out in Policies CS1 and CS4 of the CSDMP.
12. The appeal site would be located outside of, but next to the settlement development boundary for Harworth Bircotes. Hence, for planning policy purposes it is located within the open countryside where new development is strictly controlled and will not be permitted except where it complies with the exceptions set out in Policy CS1 of the CSDMP, which do not apply in this case.

¹ 61/09/00052 dated 29 March 2011

13. Consequently, the proposal would conflict with Policies CS1 and CS4 of the CSDMP and Policy 6 of the NP.
14. However, the weight to be given to CSDMP Policies CS1 and CS4 is matter of dispute between the parties. The appellant has provided a legal opinion regarding the weight to be attached to Policy CS1 in a separate appeal case² and the appellant, Council and third parties have cited a number of appeal decisions at various locations in the District³. However, these have different development characteristics to the appeal scheme and the appeal site is located on the edge of a main regeneration settlement with a Neighbourhood Plan made in 2015. Similarly, a range of appeal decisions were advanced by the appellant from elsewhere, including the appeal allowed for a large residential development at Edenthorpe in Doncaster⁴. However, these relate to a different scale and form of development in a different policy context. In any event, each application and appeal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other developments and the arguments advanced in those cases.
15. While the CSDMP pre-dates the current version of the National Planning Policy Framework (the Framework), paragraph 213 states that due weight should be given, according to the policies degree of consistency with the Framework. The approach of CSDMP Policies CS1 and CS4 is clearly aimed at restricting development outside the settlement boundary unless certain criteria are met.
16. The aim of CSDMP Policies CS1 and CS4 to support growth and direct development to appropriate locations remains consistent with the aims of the Framework and the exceptions under Policy CS1 allow some flexibility for development outside the boundaries. However, the more balanced approach taken in the Framework of assessing the potential need for additional development against the effect of the use of finite resources, such as open greenfield land and protecting valued landscape (Paragraph 170) is not explicitly set out in the Policies and in this regard would not be fully consistent with it.
17. However, whilst the SADPD did not materialise to review the geographical extent of the settlement boundaries to which Policy CS1 applies and the emerging Bassetlaw Local Plan is not anticipated to be adopted by 2021⁵, in the case of the Harworth Bircotes, the review of the settlement boundary has already in part been undertaken through the preparation and making of the NP, which has amended the boundary to include the Colliery site under Policy 6 of the NP. Whilst the settlement boundary has not been fully reviewed around the town and may as a result lead to some conflict with the Framework for reasons set out above, I do not consider the settlement boundary as defined in the CSDMP and updated through the NP has stifled the growth of the town.
18. The main parties at the hearing indicated that the current housing commitments in the town would accommodate in all around 2,163 dwellings including the recent permission for the development by Barratt Homes of approximately 650 dwellings on the northern edge of the town in November 2019. However, whilst this would exceed the housing requirement in Policy CS4

² Paul G Tucker QC Kings Chambers 27 November 2019 re: APP/A3010/W/19/3223548 - Longholme Road, Retford

³ APP/A3010/W/19/3228417, APP/A3010/W/19/3227557, APP/A3010/W/18/3197118, APP/A3010/W/19/3233600, APP/A3010/W/19/3229661, APP/A3010/W/19/3227313

⁴ APP/F4410/W/17/3169288

⁵ Doc 7 – Local Development Scheme Extract on New Bassetlaw Local Plan

- of the CSDMP, it was acknowledged by the main parties that this was a minimum figure and the current housing position has in part been achieved by greenfield planning permissions outside the settlement boundary. There are also no known infrastructural or service constraints that could not be addressed as part of the appeal proposal through appropriate mitigation and conditions.
19. Nevertheless, whilst the Policies in the CSDMP and the NP in line with government policy seek to significantly boost the housing supply in the area, it also empowers local communities through the Localism Act and the Framework to set out their shared vision for their area and to shape, direct and help to deliver sustainable development through Neighbourhood Plans (Paragraph 29).
 20. Of the 996 dwellings granted permission on the former Colliery site, 314 dwellings have either been built or are currently under construction⁶. Policy 6 of the NP provides for a further 500 dwellings as part of Phase 2 of the development and the evidence provided indicates that the site would accommodate further significant housing in the future phases of the site⁷. The current housing commitments and the redevelopment of the Harworth Colliery site would provide sufficient housing supply up to and above what is required for the town to address the local housing needs and the sustainable development principles in Policy 1 of the NP and the Framework.
 21. The CSDMP and the NP clearly set out the Council's strategy and the community aspirations for the town focused around the regeneration and development of the Colliery site and the town centre. CSDMP Policies CS1 and CS4 and Policy 6 of the NP are in this regard fully consistent with the aims of the Framework in supporting the regeneration of the town and the substantial weight given to the value of using brownfield land within settlements for homes and other identified needs and supporting opportunities to remediate despoiled, degraded and contaminated land (Paragraph 118).
 22. There are significant social, environmental and economic benefits that arise from this approach that deliver the efficient and effective use of the Colliery site and support the housing and economic growth of the town in accordance with the sustainable development objectives in paragraph 8 of the Framework. The main aim of Policies CS1 and CS4 and Policy 6 of the NP is therefore to deliver the sustainable growth of the town. The development of the appeal site would, in my view, undermine the fundamental aims of the CSDMP and the NP in the town and divert development away from the Colliery site.
 23. In light of the above factor, even if I were to give some weight to the conflict with the Framework outlined above, I consider that the most important policies in this case, Policies CS1 and CS4 of the CSDMP and Policy 6 of the NP, taken collectively are not out of date and the tilted balance under Paragraph 11 d) of the Framework is not engaged on this particular development.
 24. I conclude that the proposed development would be contrary to Policies CS1 and CS4 of the CSDMP and Policy 6 of the NP that seek to focus development around the regeneration and development of the former Colliery site and the town and restrict inappropriate housing development outside the defined settlement development boundary.

⁶ Spawforths appeal submission on behalf of Harworth Group PLC dated 16th September 2019 Paragraph 5.5

⁷ Appendix 4 – Residential Phasing Plan and Schedule of Colliery Site – Spawforths appeal submission on behalf of Harworth Group PLC dated 16th September 2019

Other Matters

25. The Council's latest Five Year Housing Land Supply Statement, September 2019, identifies a five year housing land supply in the District with a supply of 10.1 years. This position has not been disputed by the appellant, although the extent of the five year supply at present is a matter of disagreement, with the appellant identifying a supply of 7.9 years⁸. Nevertheless, the presence of a five year supply in the District is a significant material consideration.
26. A signed and completed Section 106 Agreement has been submitted by the appellant towards affordable housing and local infrastructure including education, libraries, open space, public transport and travel plan provision and sustainable urban drainage systems. However, in light of my findings on the main issue above, it is not considered necessary to look at the Section 106 Agreement in detail, given that the proposal is unacceptable for other reasons.
27. In relation to affordable homes, Policy CS4 of the CSDMP states that the Council will seek at least 15% of the total number of dwellings in Harworth Bircotes as affordable homes. This will take into account the local needs for affordable housing, the economics of the development, Government Guidance and sustainability considerations. The appellant has stated that they would provide 15% affordable housing, equivalent to 30 units, in accordance with Policy CS4 of the CSDMP.
28. The Council have stated that Bassetlaw has a high level of affordable housing need across the District. The appellant does not dispute this evidence and the signed and completed Section 106 Agreement deals with such provision and would make a contribution towards local affordable housing need. The agreement necessarily sets out the requisite percentage, tenures, definitions (including that relating to Affordable Rent) and provision rate in accordance with Policy CS4 of the CSDMP and the Framework. Based on the evidence before me, I am satisfied that the proposed contribution is necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with the Framework and the Community Infrastructure Levy Regulations. I have therefore attached significant weight to this aspect of the Section 106 Agreement in reaching my decision.
29. A number of heritage assets are located in the vicinity of the site. The nearest of these, Grange Farm, a Grade II listed dwellinghouse is located to the north-east of the site. Given the separation distance, the intervening screening and the proposed planning conditions relating to the design, layout and landscaping along the north-eastern edge of the development, I consider that the appeal scheme would have a neutral material impact on the setting of the nearby heritage assets. The settings of these assets would therefore be preserved.
30. I have considered the appellant's comments regarding the pre-application advice provided by the Council. The Council, however, provided this advice in a different policy context when the Council could not demonstrate a 5 year land supply. I note the appellant's comments regarding the supporting representations from key consultees relating to the original planning application on the appeal site and the Planning Committee's Members decision to refuse the resubmitted residential development on the appeal site⁹ against the advice

⁸ Johnson Mowat Assessment of Bassetlaw Five Year Housing Land Supply 7 January 2020

⁹ 19/01059/OUT

of its professional officers. Whilst this maybe so, this does not preclude the proper planning assessment of the impact of the proposal on the area and in any event, the Members are not bound by the officers' advice in making their final decision. I therefore accord these matters limited weight.

31. I have considered the various benefits put forward by the appellant that the proposal would bring, through making a significant contribution to supply and mix of housing in the area, to which I attribute significant weight. The affordable housing has social benefits carrying significant weight.
32. The appellant also considers that the proposal would boost the local economy through providing construction jobs, supporting local services and facilities through new residents, new homes bonus and financial contributions towards local infrastructure provision and are matters to which I attach moderate weight. In environmental terms, the appellant states that the scheme's design, open space, landscaping, biodiversity enhancement, sustainable urban drainage and sustainable transport measures would amount to environmental benefits, to which I attach moderate weight.
33. However, in this case, whilst the proposal would have limited adverse harm as a result of the loss of the open agricultural field and on the area's character and appearance, I have found that the appeal scheme would harm the objectives set out in the Framework and the substantial weight given to the value of using brownfield land within settlements for homes and other identified needs and empowering local communities to set out their shared vision through the NP process and to plan for future growth in their area. I have found above that, taken overall, the adverse impacts arising from locating the proposed development in this location, would be contrary to the relevant development plan policies set out above.
34. The harm set out above would conflict with the environmental and social objectives of sustainable development and, in my view, would be sufficient to outweigh the scheme's benefits when assessed against the Framework when read as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework. The Framework is a material consideration.
35. Accordingly, neither this nor any of the other matters outlined above amount to material considerations which would outweigh the conflict with the policies in the development plan when read as a whole. In these circumstances, there are no material considerations to justify making a decision other than in accordance with the development plan.

Conclusion

36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Walters	Broadgrove Planning & Development Ltd
Matt Cleggett	Vectio Consulting

FOR THE LOCAL PLANNING AUTHORITY:

Bob Woollard	Planning and Design Group on behalf of Bassetlaw District Council
Chris Jesson	Planning and Design Group on behalf of Bassetlaw District Council

INTERESTED PARTIES:

Councillor June Evans	Bassetlaw District Council and Harworth and Bircotes Town Council
Dave Rollinson	Spawforths on behalf of Harworth Group PLC
Lisa Matthewson	Spawforths on behalf of Harworth Group PLC

DOCUMENTS SUBMITTED DURING THE HEARING

- Doc 1 Appeal Decision Ref. APP/A3010/W/19/3228417 Chapel Farm Bungalow, South Street, Normanton on Trent submitted by the Local Planning Authority.
- Doc 2 Appeal Decision Ref. APP/A3010/W/19/3227557 Hollyhock House, South Street, Normanton on Trent submitted by the Local Planning Authority.
- Doc 3 Appeal Decision Ref. APP/A3010/W/18/3197118 Land West of The Barn, Ollerton Road, Tuxford submitted by Spawforths.
- Doc 4 Appeal Decision Ref. APP/A3010/W/19/3233600 Hilltop Farm, Main Street, Upton submitted by Spawforths.
- Doc 5 Appeal Decision Ref. APP/A3010/W/19/3229661 Tangletrees, Main Street, Laneham submitted by Spawforths.
- Doc 6 Appeal Decision Ref. APP/A3010/W/19/3227313 Land adjacent to Ashlea, Plantation Road, East Markham submitted by Spawforths.

- Doc 7 Extract from Bassetlaw Local Development Scheme showing timetable for new Bassetlaw Local Plan submitted by the Local Planning Authority.
- Doc 8 Updated list of suggested conditions submitted by the Local Planning Authority.
- Doc 9 Costs application rebuttal response dated 14th January 2020 produced by Planning and Design Group on behalf of Bassetlaw District Council submitted by the Local Planning Authority.