



Appeal Decision

Site visit made on 2 August 2022

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th August 2022

Appeal Ref: APP/A3010/W/21/3288022

Land North West of Mill Close, North Leverton, DN22 0AZ, 478048, 382092

- 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 MV Construction GB Ltd against the decision of Bassetlaw District Council.
 - The application Ref 20/01652/OUT, dated 14 December 2020, was refused by notice dated 22 September 2021.
 - The development proposed is "the erection of 20Nr bungalows designed specifically for elderly or disabled residents with restricted mobility. The proposal is to have it's own adopted roadway with associated driveways, hard and soft landscaping, boundary treatments and parking allocation."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline. The application form makes clear that approval was sought for layout and access, and drawings were submitted to that effect. Despite this, the Council described the application as "*Outline Application with Some Matters Reserved (Approval Being Sought For Access) for Demolition of Building/s and the Erection of up to 20 Bungalows.*"
3. Part E of the appeal form states that the description of development has not changed but uses the wording of the Council. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application. I do not consider that any prejudice arises from this approach.

Main Issues

4. The main issues are whether or not the appeal site is a suitable location for the development proposed, and whether or not the proposal would deliver sufficient affordable housing in an area of need.

Reasons

Location

5. The appeal site is an open field on the edge of North Leverton, between existing residential development on Mill Close and a railway line on an embankment.

6. The Sturton Ward Neighbourhood Development Plan 2021 (the NP) identifies the site as being partially within the development boundary and allocates that same part as site NP18. Policy 15a sets the aspirations to deliver a well-designed development of "*in the region of*" 10 dwellings on the site, the design of which should be reinforce the character of the area and in particular should have a soft transition to the countryside beyond its boundaries.
7. The proposal, essentially developing the entirety of the field, would not leave space for such a soft-transition, even acknowledging the existence of the railway embankment which creates an obvious barrier between the site and the wider landscape. A substantial part of the site would also lie outside of the allocation and beyond the development boundary.
8. I note the commentary from the appellant around the size and in particular, the relationship of the NP allocation to physical features on the site. I also note their comments around the relationship between the size of the site promoted for the NP, the allocated site, and the appeal site. However, on the basis of the evidence before me, I do not consider it is either possible to, or appropriate in this appeal to attempt to unpick the neighbourhood planning process which has delivered that allocation, particularly given the age of the NP and the primacy of the development plan in the National Planning Policy Framework (the Framework).
9. The proposal, by virtue of its scale, as well as the size and location of the site is plainly contrary to NP Policies 1, 2a and 15a which define development boundaries and seek to support development proposals within those boundaries, which are consistent with allocations in the NP, and which meet defined development needs.

Affordable housing

10. Policy DM5 of the Bassetlaw District Local Development Framework Core Strategy & Development Management Policies DPD, adopted 2011 (the CS) requires new housing development to deliver housing of a size, type and tenure appropriate to the site and locality, informed by a wide range of supporting information. I agree with the Council that the evidence base for the emerging local plan, as well as consultation responses on the application is suitable evidence to support the requirement for 25% affordable housing to be provided on-site for a proposal of this scale and type. Such a requirement for affordable housing is also consistent with the expectations in the Framework.
11. Whilst Policy DM5 does set out that proposals for new housing for the elderly will be supported, this support is qualified as being for such development in suitable locations. It is clear from the first reason for refusal, and the settlement boundary in the NP that the Council do not consider the appeal site to be such a suitable location. In my reasoning above, I have found the same.
12. The appellant has also presented evidence around the viability of their particular proposal and the effect of this on their ability to provide affordable housing. However, as that relates to both the scale of the proposal, addressed above and the type of development proposed, I do not consider that the evidence before me is sufficient to warrant setting aside the development plan requirement for affordable housing for a proposal of this scale.

13. I also note the suggestion that a proposal which complied with other policies for the site, notably those in the NP, would also not deliver any affordable housing as it would be below the threshold at which it is required. However, I do not find that argument sufficient to merit granting planning permission for a much larger proposal, on land beyond the development boundary, contrary to the development plan, which would also not deliver any affordable housing.
14. The threshold applied by the Council is clearly evidence based, and I have not found that the evidence before me is sufficient to disapply the requirement in this case. The proposal would therefore be contrary to Policy DM5 of the CS, as well as guidance in the Framework around delivering sufficient homes of the right type and tenure.

Other Matters

15. I do not agree that there is a conflict between the two reasons for refusal, and in turn, my main issues. To my mind, it is wholly appropriate for the Council both to seek affordable housing in line with the requirements and thresholds in the development plan, to meet identified needs; and to support the development boundaries and aspirations set out in the development plan.
16. I also note the concerns of the appellant around the size and shape of the allocation, the effect of this on potential design approaches and their ability to deliver a policy-compliant layout consistent with local character. Whilst I acknowledge their comments, I do not find that what has been proposed is fundamentally different to the layout options which their submissions criticise. It also appears that broadly speaking, within the part of the site allocated under Policy 15a as site NP18, submitted for approval, the proposed layout would deliver housing, of the type and tenure sought by the appellant, within the requirements of the development plan policy outlined above.

Planning balance

17. It is common ground between the parties that there is no housing land supply shortfall in the area. However, the appellant suggests that there is an overwhelming, and overriding need for accommodation of the type proposed.
18. Although I agree that there appears to be a need and demand for this type of accommodation, I do not find that such a need is specifically proven for this location. Indeed, it is clear from the consultation responses that whilst officers of the Council agree that bungalows are in short supply across the area, their delivery should not come at the expense of affordable housing for which there is a clear need, and a clear policy requirement given the scale of the proposal. On the basis of the evidence before me, I agree with those conclusions.
19. I accept that there are material considerations which weigh in favour of the proposal, notably the need for accommodation of this type and tenure, and I acknowledge the appellants' expertise in this area. However, consistent with the Framework requirement for a plan-led system, I do not find that this need outweighs the wider need for affordable housing established through the plan-making process.

20. Whilst I agree that a high level of housing land supply in excess of policy minima, and even in excess of allocations for particular settlements, does not in itself provide a reason for refusal, it is clearly an important factor when balancing the weight of material considerations in favour of a proposal against its conflicts with the development plan.
21. Given the age of the relevant plans, notably the NP, I do not find that the need for elderly-appropriate accommodation outweighs the significant conflict I have found with the development plan, namely the location of the site and the lack of affordable housing which would be required for a development of this size.
22. I also share the concern of the Council that there is no mechanism proposed to ensure that the tenure of the proposal would remain as proposed. There is therefore nothing before me which would ensure that any benefits ascribed to the proposal, namely the provision of elderly-appropriate accommodation, which is otherwise contrary to the development plan, would endure, sufficient to justify the setting aside of the development plan. I do not consider that this matter could be appropriately addressed by a condition.

Conclusion

23. For the reasons given above I therefore conclude that the proposal conflicts with the development plan and there are no material considerations which indicate that a decision be taken other than in accordance with it.
24. The appeal should therefore be dismissed.

S Dean

INSPECTOR