



Appeal Decision

Hearing held on 9 January 2024

Site visits made on 12 December 2023 and 9 January 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal Ref: APP/A2470/W/23/3328643

Land off Manor Green, Ketton, Rutland PE9 3TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Manor Oak Homes against the decision of Rutland County Council.
 - The application Ref 2022/0066/MAF, dated 11 January 2022, was refused by notice dated 13 June 2023.
 - The development proposed is residential development of up to 41 no. dwellings including open space, allotments, improved site access including off-site highway works and ecological enhancements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner heading above is taken from the Council's decision notice. However, both parties agree that as the application was submitted in full, the words 'up to' are superfluous. I agree and have considered the proposal on this basis.
3. During the appeal the appellant submitted an amended site layout plan (Rev P) which identified the location of the proposed affordable housing. As there are no alterations to the layout, no party has been prejudiced by my accepting this amended plan during the appeal.
4. A draft S106 planning obligation was submitted prior to the Hearing. This included provisions regarding affordable housing and open space. A signed and executed version of the obligation was received after the Hearing in accordance with an agreed timetable.
5. Since the determination of the application, the Ketton and Tinwell Joint Neighbourhood Plan (2023) (NP) was made, and the revised National Planning Policy Framework (December 2023) (the Framework) and latest Housing Delivery Test (HDT) results were published. The main parties were able to comment on any implications of these documents during the appeal process.

Main Issue

6. The main issue is whether or not the development plan would support the proposed residential development in this location and if it does not whether any conflict with the development plan would be outweighed by other material considerations.

Reasons

Development Plan

7. The appeal site comprises of an arable field located, in part, adjacent to Ketton's planned limits of development, as defined in the Council's Site Allocations and Policies Document (2014) (SAPD). Ketton is defined as a Local Service Centre in the settlement hierarchy within Policy CS3 of the Council's Core Strategy (2011) (CS). Being located outside of Ketton's planned limits of development means that the field is treated as countryside for the purposes of applying the relevant development plan policies. As such, the proposal does not fall to be assessed against Policy SP5 of the SAPD as this is focussed on built development in the towns and villages.
8. New development in the countryside is permitted where it is related to specific forms of development as set down in Policy CS4 of the CS and Policy SP6 of the SAPD. These include, amongst other things, rural workers dwellings and affordable housing developments. Although the proposal includes affordable housing (21 units), there would also be 20 market houses. As such, the proposal would not accord with any of these listed forms of development bringing conflict with both of these policies.
9. The NP is also now part of the statutory Development Plan. It enables the planning aspirations of local communities to be expressed by developing a shared vision for their neighbourhood and shaping the development and growth of their local area. Although not referred to in the Council's reason for refusal, my attention has been drawn to Policies KT1, KT7 and KT11 of the NP. Policy KT1 sets down the overall sustainable development and localism principles and says, amongst other things, that development proposals shall be appropriately located (criterion i).
10. Policy KT11 of the NP is concerned with the location and scale of new housing in Ketton. It seeks to support new housing that accords with Policies CS3 and CS4 of the CS, and Policy SP5 of the SAPD. It also says that it supports development where, in order to provide proportionate and controlled growth for Ketton in line with government and local housing targets, the neighbourhood area will provide a minimum of 52 dwellings within the Plan period.
11. It was explained at the Hearing and not disputed that the 52 dwelling figure has been exceeded already. However, this is a minimum not a maximum figure. As such, the number of dwellings granted in the settlement to date is not a determinative matter in relation to any conflict with this policy. Nonetheless, having found conflict with Policy CS4 of the CS, it follows that the proposal would also not garner support from Policy KT11 of the NP. Moreover, as a result of this conflict, the proposal would not be 'appropriately located', bringing conflict with criterion i of Policy KT1 of the NP.
12. Policy KT7 of the NP designates, amongst other things, incidental and amenity open spaces within housing areas, including along Manor Green, as open spaces and recreational facilities. The policy goes on to stipulate that existing open spaces, recreation facilities and school playing fields should be protected from development (criterion ii).
13. As part of the proposal, a parking layby and realignment of the footway are proposed along Manor Green. This would result in the loss of a small section of

grassed open space bringing conflict with criterion ii of Policy KT7 of the NP. This grassed space slopes to the footway and includes several trees. Full details are not before me of the implications to any of these trees from the regrading of the grassed slope to create the parking layby and realigned footway. Whilst at the Hearing it was suggested that a single tree might be lost, no substantive evidence is before me to quantify and reach a firm conclusion on this matter. Several existing residential properties face directly onto this area of open space and these off-site works, including the potential loss of established trees, would reduce the quantity and quality of this incidental area of open space.

14. Criterion iv goes on to stipulate that development proposals, which would reduce the quality or quantity of these facilities will only be supported if existing facilities are replaced at a better quality or quantity and in a sustainable location. The existing open space contributes to the visual amenity of this part of Manor Green, primarily for the benefit of residents that face toward it, but also to other residents passing through.
15. The proposal includes large areas of open space which would be accessible to existing residents. However, it would have a different function for the existing occupiers of Manor Green, as it would improve their recreational access of the appeal site rather than improving the visual amenity around their homes. Accordingly, whilst the proposed open space is a benefit that I will return to, in so far as it relates to Policy KT7 of the NP, it would not equate to the replacement of existing facilities at a better quality or quantity and in a sustainable location, thus bringing conflict with Policy KT7.
16. To conclude, the proposal would conflict with the requirements of Policies CS4 of the CS and SP6 of the SAPD. It would also conflict with Policy KT1 and KT7 of the NP and would not be supported by Policy KT11 of the NP. Accordingly, the development plan would not support the proposed residential development in this location. These policies seek, amongst other things, to safeguard the countryside and ensure a viable and sustainable pattern of settlements with the focus of development in and around the more sustainable settlements of Oakham and Uppingham.

Other Material Considerations

Contribution to housing supply

17. There is no dispute that the Council can demonstrate a 5-year supply of housing land. The Council's last 5-Year Housing Land Supply & Developable Housing Land Supply Report was published in May 2023 and indicated that the Council could demonstrate a 7.4-year supply. This report was considered in an appeal at Barleythorpe (Ref: 3312763) where the Inspector concluded that the Council could demonstrate a 5.59-year supply, which would drop to 5-years exactly if the Council's windfall allowance were to be discounted.
18. The revised Framework has removed the requirement for a 5% buffer that was previously applied to the annual local housing need figure. Moreover, the Council's emerging Local Plan has now reached Regulation 18 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. As such, paragraph 226 of the revised Framework establishes that the Council is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 4-years' worth of housing.

Taken together, based on the revised Framework in effect rewarding the Council for progressing work on an emerging local plan, the Council's housing supply is not, in my view, marginal.

19. The latest HDT figures, show the Council has delivered 122% of its requirement down from 156% the previous year. The appellant has highlighted that the Council's delivery has slowed down and much of the housing delivered has been on unallocated sites contrary to the adopted development plan. I do not have the full details of the makeup of these housing sites. Nonetheless, Policy CS9 of the CS stipulates, amongst other things, that greenfield sites within or adjoining the planned limits of development in Oakham, Uppingham and the Local Service Centres will only be allocated and released where needed to maintain a sufficient and phased supply of deliverable and developable land.
20. It is put to me that the appeal scheme could be delivered entirely within 3-years of any consent. However, the appellant would not build out the scheme but would sell the site to a developer. As such, whilst the offer of a two-year commencement condition and expressions of interest from potential developers are noted, there is no firm evidence that the appeal scheme before me would be delivered entirely within 3-years. In this regard, the release of greenfield sites previously to deliver housing or the potential speed of delivery of the appeal scheme does not alter or diminish the weight I give to the current position in respect of the Council's delivery and supply.
21. Drawing the above together, whilst no substantive evidence has been provided to establish a current up to date figure, I am satisfied that the Council can demonstrate in excess of a 5-year supply of deliverable housing. This would be appreciably greater than the requirement for a 4-year supply as established by the revised Framework. Whilst the delivery of any market housing is a benefit, the lack of identified need, along with the latest delivery figures, limits the overall weight I give to the delivery of market housing in this location.

Affordable housing

22. In addition to boosting the supply of houses, the proposal would secure 51% of the houses (21 units) as affordable homes. Both main parties accept that the need, supply and delivery in Rutland is acute. The appellant has sought to quantify this further advising that the number of households on the waiting list for affordable housing as of 2021/22 was 297. The appellant calculates that based on a supply figure of 721 dwellings, the Council would secure 130 affordable dwellings, leaving 167 households in need and without access to appropriate housing. This, the appellant advises, is also before the creation of new households in need over the same period. The Council does not dispute these figures.
23. The Council considers that the need would be delivered either through existing mechanisms in the development plan or through the emerging plan. However, whilst the emerging Local Plan is progressing, it could still be subject to change and its draft policies carry no weight. Moreover, there is no substantive evidence submitted as part of the appeal to demonstrate that there is a realistic prospect that the current acute need for affordable housing would be addressed. In the absence of any evidence to the contrary it does not diminish the weight I give to the benefits of providing affordable housing as part of the proposed scheme.

24. The proposed affordable housing is not designed to meet an identified need in Ketton. Moreover, I was told at the Hearing of difficulties some housing schemes have had finding registered providers for the affordable housing. However, no evidence has been presented as part of the appeal to support such matters, nor is there any evidence that there would not be a demand for the affordable housing in this location from the broader area. The proposal would contribute 21 affordable homes to the overall supply across Rutland carrying significant weight in favour of the appeal.

Ecology and Biodiversity Net Gain

25. The proposal would incorporate bird and bat boxes, new native scrub and tree planting along with areas of new wildflower grassland. The habitat enhancements have been calculated to result in a biodiversity net gain of 91.09% using the DEFRA 3.0 metric calculator. This represents a significant enhancement of the existing habitat on site exceeding any policy requirements and attracts significant weight.

Open Space and landscaping

26. The proposal includes a large area of managed open space that would be available for all residents given the various connection points to the proposed housing scheme by foot. This would include the provision of allotments, footpath improvements and a local area for play (LAP). Even though the Parish Council are negotiating to secure allotments on another housing site, the proposed allotments would still meet one of the community aspirations of the NP.
27. However, the proposal would also result in the loss of the existing agricultural field, as an area of countryside, which would impact on the public right of way passing through the site. The development of housing, and the associated engineering works, would alter the more peaceful rural qualities of the site to a suburban environment. Moreover, the proposal would also erode the designated open space along Manor Green. On balance, I afford the benefits from the proposed open space and landscaping limited weight.

Design

28. The design of the dwellings and the internal layout would generally be of a high quality and each of the properties would have good quality living space achieving a 'green' rating for all of the criteria included as part of the Council's Residential Development Assessment Sheet. Moreover, each dwelling would be designed to achieve the Future Buildings Standard delivering 75-80% less carbon emissions than homes delivered under the current regulations.
29. Several concerns have been expressed by local residents regarding the design of the access road leading from Manor Green to the proposed housing. The road and footway would be wide enough for its safe intended use by vehicles and pedestrians. However, it would be bound by a 1.8m acoustic barrier and would have no houses with active frontages facing onto it. This, and its length and alignment curving between the enclosed gardens of houses would not make for a high-quality entrance route into the new development. This would be exacerbated by the position of the housing within the field, which would mean that the houses would only be revealed when turning on the last bend of the access road into the site.

30. The access road into the site is a small but important component of the overall design and does, in my view, diminish the aspirations of the scheme to be an exemplar development. On balance, I do not consider the design of the scheme to be of a level that exceeds expectations overall and I afford the quality of design neutral weight.

Other benefits

31. Ketton has a level of facilities and access to public transport that is commensurate with its status as a Local Service Centre. From the evidence before me, the village infrastructure would be capable of catering for the proposed development and would be accessible from the appeal site. The proposal would result in further spending within the local economy by the new residents. There would also be employment benefits in terms of the provision of jobs during the construction phase. The range of social and economic benefits are matters to which I give moderate weight due to the scale of the development.

Planning Obligation

32. The signed and dated planning obligation would secure 51% of the dwellings (21) as affordable homes and contains obligations in relation to Open Space. These obligations are necessary to meet identified affordable housing needs and provide a minimum level of open space that would accord with Policies CS11 of the CS and SP9 and SP22 of the SAPD in so far as they relate to these matters. They would therefore be necessary to make the development acceptable in planning terms. I also accept that they would be directly related to the development, and fairly and reasonably related to it in scale and kind. Accordingly, they would meet the tests set out in paragraph 57 of the Framework and in Regulation 122 of the CIL Regulations.

Policy Considerations

33. I consider that the most important policies for the determination of this appeal are Policies CS4 of the CS and SP6 of the SAPD and Policies KT1, KT7 and KT11 of the NP as these are the policies that directly relate to the main issue in this appeal.
34. Policies CS4 of the CS and SP6 of the SAPD are consistent with the Framework to the extent that they recognise the intrinsic character and beauty of the countryside by safeguarding it from development, establish situations where housing would be permitted in the countryside, and seek to direct development to the most sustainable locations.
35. Policy KT11 of the NP refers to policies of the CS, including Policy CS4 and is, along with Policy KT1, consistent with the Framework's aspirations for high quality development in sustainable locations. I also find that Policy KT7 of the NP is consistent with the Framework to the extent that it recognises the value and differing functions of undeveloped land.
36. I therefore find that the most important policies for the determination of this appeal are consistent with the Framework. Moreover, the Council is able to demonstrate in excess of a 5-year supply of deliverable housing land against a requirement of 4-years, as established by the revised Framework. Accordingly, the development plan policies most important for the determination of the

appeal are not out of date. As such, the conflict with these policies weighs significantly against the proposal.

Other Matters

37. The Council has not raised any concerns regarding any effects on the setting of any heritage assets. Nonetheless, I am mindful of my statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requiring decision makers to have special regard to preserving the setting of a listed building or any features of special architectural or historic interest. Accordingly, I have been referred to the Churches of St Mary, Ketton (Grade I listed) and St Andrew, Collyweston (Grade II* listed), the Dovecote at Home Farm, Ketton (Grade II listed), Nos 60 and Post Office, 72, 74 (the Vale), 76, 78 and 88 The High Street, Ketton (all Grade II listed) and the Windmill on Empingham Road (Grade II listed).
38. In so far as they relate to this appeal, the Churches' significance is derived from their respective historical and architectural interests including their use, age, form, and fabric. Their prominence within the wider landscape reflects their historical and social importance to the community. The elevated, open undeveloped qualities of the appeal site allow views of these Churches within their setting and thus makes a positive contribution to their significance, albeit to a very small degree given the site forms a very small part of their wider setting. The proposal would, through the street arrangement and increased public routes through the site continue to provide various long distant views of the Churches even with the new buildings. In this regard, the proposal would not erode the contribution that the appeal site's open setting makes to their significance.
39. From the evidence before me, the Dovecote at Home Farm's significance is derived from its architectural and historical interest as a well-preserved, good example of a dovecote tower design lined internally with nesting boxes and its physical relationship to the listed farmhouse (No 72 High Street). No 72, and the other listed buildings along this part of The High Street (Nos 60 and Post Office, 74 (the Vale), 76, 78 and 88) are close together. Their significance, in so far as it relates to this appeal, is principally derived from their historic and architectural interests as 17th to 19th century vernacular properties forming part of the historical core of the rural village. The significance of the windmill along Empingham Road, in so far as it relates to this appeal, is derived from its architectural and historical interest as a surviving tower mill dating to the 18th century.
40. I have no substantive evidence of a specific historic relationship between the appeal site and any of these listed buildings. Although the appeal site's agricultural qualities form part of their wider rural setting, the distance and intervening landscape features means the appeal site contributes little, if anything, to their significance, or their setting. Even if seen from, or in combination with, the listed buildings, given the separation distance and intervening features, the proposal would not alter how their significance is appreciated. As such, it would have a neutral effect on the setting of these listed buildings and the contribution their setting makes to their significance.
41. From the evidence before me, the appeal site is not in a Conservation Area (CA). As such, the statutory duty under Section 72(1) of the Act does not apply as the Act specifically refers to building or other land *in* a CA. Nonetheless, I

have no reason to disagree with the Council's findings on the setting of Ketton CA. The absence of harm in relation to this, or other considerations including, amongst other things, noise, archaeology, and flooding, weigh neutrally in the planning balance.

42. The off-site highway works along Manor Green have not been put forward as a benefit of the scheme by the appellant. I agree. Given the increase in vehicle movements from the proposed development, extent of on-street parking along Manor Green that would remain, the location of the proposed uncontrolled crossing directly onto the green with no footway, the off-street highway works would not constitute a benefit overall and do not weigh in favour of the scheme.
43. Both parties have referred to several appeal decisions¹ within the County at Oakham, Ketton, Barleythorpe and Edith Weston. Each illustrates, the approach taken by the respective Inspector in weighing the differing considerations including the benefits of the respective scheme. I do not have the full details of each scheme before me. However, from the evidence available to me, the appeal scheme's benefits, effects, and situation in relation to the Neighbourhood Plan, revised Framework, latest housing supply and delivery figures are not directly comparable to the proposal before me. In this regard, whilst noting the balance of considerations made in these other appeals, I have considered the appeal proposal on the basis of the evidence before me on its own merits.

Planning Balance

44. The conflict with the policies of the development plan I have identified is a matter that weighs significantly against the proposal. Indeed, the spatial strategy of the County would be undermined if it was allowed, bearing in mind that Paragraph 15 of the Framework reminds decision-makers that the planning system should be genuinely plan-led. This reflects the primacy of the development plan set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004.
45. The loss of a small part of the designated area of open space along Manor Green adds to my concerns from the development of housing in this location. To allow development contrary to the development plan would therefore undermine and dilute the plan-led system, the future pattern and planned sustainable growth of settlements in the County, would not safeguard the countryside and would be contrary to the aspirations of the community. Taken together, these matters weigh substantially against the proposal.
46. The scheme would support the wider area's acute need for affordable housing, contribute to the ongoing supply of market housing, result in a biodiversity net gain, quality open space and landscaping for existing and future residents and have a range of social and economic benefits. The totality of these benefits is significant but is not sufficient to outweigh my findings in relation to the conflict with the development plan policies and the Framework.

¹ Appeal Decisions Ref: 3301737, 3287674, 3312763 and 3323586

Conclusion

47. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations that outweigh this conflict. Therefore, the appeal is dismissed.

Mr R Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alex Munro	ARP Planning
Oscar Briggs	Manor Oak Homes
Martin Andrews	Martin Andrews Consulting

FOR THE LOCAL PLANNING AUTHORITY:

Joe Mitson	Rutland County Council
Nigel Reids	Rutland County Council
Nick Thrower	Rutland County Council
Sharon Baker	Rutland County Council

INTERESTED PERSONS:

Ann Tomlinson	NP Steering Group
Cllr Karen Payne	Ward Councillor
Mary Kade	Parish Council
David Carroll	Local Resident
Dr Drew Reynolds	Local Resident
Fiona Fraser	Local Resident
Graham Lane	Local Resident
Dr Sinclair Rogers	Local Resident
John Deane	Local Resident

DOCUMENTS:

- Photographs of parking along Manor Green
- Email clarifying typographical errors in the planning obligation