



Appeal Decision

Hearing (Virtual) held on 30 April 2024

Site visit made on 15 January 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/P4415/W/23/3325674

Land south of Taylor Drive, Woodsetts, Rotherham

- 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 RDS Transport against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2022/0498, dated 15 March 2022, was refused by notice dated 13 January 2023.
 - The development proposed is the erection of 10 no. semi-detached affordable dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal commenced under the written representations procedure; however, following the site visit I requested that the procedure was changed to a hearing to allow me to question the parties on aspects of their evidence which I considered would be central to my decision-making. A virtual hearing was duly held on 30 April 2024.
3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The main parties have been afforded the opportunity to comment on the revised Framework during the course of the appeal. References hereafter are to the December 2023 version.

Main Issues

4. The site lies within the Green Belt. Therefore, the main issues are:
 - Whether the proposal amounts to inappropriate development in the Green Belt;
 - The effect on the openness and purposes of the Green Belt;
 - If the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

5. The appeal relates to an undeveloped agricultural field to the southern edge of the village of Woodsetts, which is categorised as a Local Service Centre in the fourth tier of the settlement hierarchy of the Rotherham Core Strategy

(September 2014) (the RCS). The site stands at the end of Taylor Drive, a residential cul-de-sac. To the southern boundary is a mature tree line, beyond which are detached dwellings in the smaller settlement of Lindrick that is washed over by the Green Belt.

6. The proposal is for a 100% affordable housing development of 10 units. The development would be accessed via an extension of the existing cul-de-sac and would comprise five pairs of single storey, two-bedroom bungalow units arranged around a new turning head.

Whether Inappropriate Development

7. The Government attaches great importance to Green Belts. Paragraph 154 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate. This includes, at criterion (f), limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites). The matter at issue is whether the proposal would meet with this exception.

Development Plan Policy

8. The relevant development plan policy in this case is Policy CS7 of the RCS which addresses housing mix and affordability. Part C of the policy states:

Where the need for affordable housing has been identified in local service centres and Green Belt villages, which cannot be met on infill sites or in nearby larger settlements small scale rural exception sites will be supported either within the village or as small extensions to the village, as a means of providing affordable housing.

9. The appellant argues that the requirement of Policy CS7 to consider whether identified need can be met in nearby larger settlements is inconsistent with the Framework's support for opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, as housing would not be provided where the need is identified.
10. However, local in the context of affordable housing delivery is not defined in the Framework or other policy or guidance put to me. Whereas in an urban context local may mean a single neighbourhood, in a rural context it is likely to extend over a larger area, particularly where people are required to travel between settlements for work, education, shopping and leisure purposes. Whilst the appellant refers to the parish as a measure, Policy CS7 does not stipulate that local means a parish, or a single village. As such, it is a matter of judgement.
11. Moreover, it is necessary to read Policy CS7 as part of the overall spatial strategy of the development plan. In this respect, Policy CS1 sets out the settlement strategy, with a hierarchical approach where the majority of development is directed to the largest settlements which have the most facilities and better public transport options. Policy CS7 does support development within a specific village where an infill site can be identified, but the requirement to then look to *nearby* larger settlements means that should such sites be identified, they would be local to the identified need, even if they are not in the specific village in question. This tallies with the wider approach of the spatial strategy, and indeed the Framework, of directing development to

the most sustainable locations in the first instance. By considering whether a nearby settlement can accommodate the identified need, a proposal would be capable of both delivering affordable housing sufficiently close to where there is an identified need and doing so in a sustainable location.

12. The appellant further refers to the High Court judgement in *Robb*¹. However, the crux of this judgement is that it is necessary to comply with the relevant development plan policy in full in order to meet with the Framework exception to inappropriate development in the Green Belt. There is no dispute that policy CS7 is the relevant policy relating to rural exception sites. That it contains different criteria to the policy considered in the referenced case law does not in my view mean that its requirements do not need to be met in full.
13. Consequently, I regard Policy CS7 as consistent with the Framework, as it provides for affordable housing on rural exception sites in specific circumstances, whilst also aligning with the wider aims of the Framework to deliver development in the most sustainable locations. Therefore, it should be afforded full weight in the decision-making process.

Policy CS7(c) criteria

14. The appellant has provided a local needs housing survey which concludes that there is a need for at least 12 new affordable homes in Woodsetts parish, made up of 7 existing households and 5 newly forming households. The Council points to the appellant's survey not having been certified by the parish council or brought forward in conjunction with a rural housing enabler, although the evidence before me does not indicate this is a policy requirement. However, the Council nevertheless accepts that there is a need for affordable housing in Woodsetts and this is not a point of dispute between the main parties.
15. It is also not in dispute that the proposal can be regarded as 'small scale' for the purposes of Policy CS7(c), or that there are no infill sites within Woodsetts that would be sequentially preferable locations for the proposed development.
16. The main area of dispute, therefore, is whether the identified need can be met in a nearby larger settlement. The settlement in question is Dinnington, Anston and Laughton Common (including Dinnington East Broad Location for Growth) (hereafter 'Dinnington') which are grouped together under the second tier in the settlement hierarchy of Policy CS1. The dispute centres firstly on whether Dinnington is a 'nearby larger settlement.' If it is, it then falls to be considered whether the identified need in Woodsetts can be met in Dinnington.
17. It is common ground that there is no definition of 'nearby' in Policy CS7 or elsewhere in the development plan. As such, it is a matter of judgement on the facts of the case and, in simple terms, it is reasonable to consider that it is an assessment of physical proximity.
18. The appellant states that Dinnington is not 'nearby' for the purposes of Policy CS7, as it is located within a different parish. The appellant further argues that the parish boundary should be taken as the relevant area for defining 'nearby,' referring to the use of the parish as the geographical area for assessing eligibility for allocation of affordable housing under the Council's cascade approach set out in its Affordable Housing Supplementary Planning Document (SPD) (June 2021).

¹ R. (on the application of Robb) v South Cambridgeshire DC [2017] EWHC 594 (Admin).

19. However, parish boundaries can vary in area and have very different settlement sizes. Their use as the assessment unit may also result in odd outcomes, such as where directly adjacent settlements are excluded due to a parish boundary running between them or, as in the present case, there being no possible comparison as Woodsetts is the lone settlement of any discernible size in the parish. To my mind, the appellant's approach restricts the search area unnaturally and ignores the fact that the built-up areas of Dinnington and Woodsetts are only some 2km away at the nearest point, and the distance from the appeal site to the centre of Dinnington is some 5km. In a rural context, these are not significant distances and, as attested to by Woodsetts residents at the hearing, Dinnington provides for much of their day-to-day needs. As such, it is also local in practical terms and I disagree that the Council has sought to arbitrarily seek out the next largest settlement, regardless of distance. Rather, it has considered the location of settlements on a straightforward basis of distance and it is the appellant who has sought to arbitrarily apply parish boundaries as a parameter despite there being no policy basis to do so.
20. Ultimately, it is necessary to read and apply planning policies objectively. In this case, I consider that Dinnington, being physically close to Woodsetts and a higher order settlement, is a 'nearby larger settlement' for the purposes of applying Policy CS7(c). Moreover, as set out above, I am satisfied that the requirement of the policy to consider nearby larger settlements is not inconsistent with the Framework. Therefore, it is necessary to go on to consider whether the need arising in Woodsetts can be met in Dinnington.

Whether need can be met in nearby larger settlement

21. The supporting text to Policy CS7 sets out that the Strategic Housing Market Assessment (SHMA) provides the main body of evidence in relation to affordable housing need. The 2010 SHMA, which formed part of the evidence base for the RCS, suggested that 35-40% of all new housing in the plan needs to be affordable, but that it can realistically be expected that 25% of new homes developed by the open market would be affordable. This leaves an accumulating shortfall of 10 to 15% of the total annual housing requirement that should be affordable but is unlikely to be met by open market housing, and alternative delivery mechanisms will be sought for this need. The appellant points to the rural exceptions policy of CS7 as one such mechanism.
22. The appellant's evidence identifies a district-level need of 716 affordable dwellings per annum, based on figures set out in the 2019 SHMA. This is further refined to 192 units within the South East housing market sub-area and 57 units in Dinnington, based on its population share. The appellant points out that some 959 affordable dwellings have been delivered between 2018/19 and 2022/23, a shortfall of 2,621 dwellings against a five year need of 3,580². The evidence before me also indicates around 6,000 people are currently on the Council's housing register. It is apparent from the SHMA and the supporting text to Policy CS7 that there is a pressing and increasing need for affordable housing across the borough. The appellant's evidence in respect of affordability, demographic trends and loss of public sector housing stock is not refuted by the Council.

² Statement of Common Ground, Pg 23

23. The evidence indicates that the SHMA figure was even higher at the time the RCS was being examined, at 1,115 dwellings, which exceeds the overall annual housing target of 958 set out under Policy CS6. However, the conclusion of the SHMA points out that it is impossible to precisely translate evidence within it to planning policy; rather it should be considered a guide. Indeed, the Examining Inspector did not adopt the SHMA figure as a target, noting as the Council does in its evidence that this is an unconstrained figure and that delivery of affordable housing on the ground is affected by various factors including viability. Consequently, the Examining Inspector supported the approach of Policy CS7 to secure as much affordable housing as is realistic for the market to achieve, rather than setting a specific target. Therefore, the SHMA need figure is not an adopted target in the development plan, which instead seeks to provide affordable housing as a percentage of the overall delivery of housing, as specified under Policy CS7.
24. I note the appellant's explanations that the SHMA figure was drafted in the context of the Standard Method and the reason it is higher than the overall housing need is due to having to address a backlog of need caused by previous undersupply and loss of existing public sector housing stock. However, I see sense in the approach of the examining Inspector, and in that of the Inspector in the *Pitches Sports Club*³ appeal decision referred to me, who was presented with the same SHMA figure of 716. He noted that this exceeded the local housing need figure of 556 dwellings per annum and that this imbalance provided a 'sense check' to the SHMA figure which was *'unreliable, unrealistic and unachievable when considered in the wider housing need and delivery context.'* I concur with this analysis as, notwithstanding the practical constraints, such levels of affordable housing delivery well above the overall housing target would be inconsistent with the development plan in terms of its role in delivering sustainable development that balances housing growth with environmental and other considerations required by the Framework.
25. Consequently, whilst there is an undoubted need for affordable housing in Rotherham, the assessment of whether that need can be met must be made in the context of the overall spatial strategy of the development plan. Policy CS1 plans for delivery of 1,300 homes in Dinnington over the plan period from 2013 to 2028. Affordable housing at 25% would amount to 325 units, although there is no specific policy requirement to achieve 25% affordable housing in each settlement.
26. The evidence before me is not comprehensive in terms of affordable housing delivery since the start of the plan period, but it indicates that planning permission has been granted for some 155 affordable housing units in Dinnington since 2018.⁴ Three of these developments are well advanced on site⁵. Beyond this, a further development of 100% affordable housing for 46 units has been granted permission and is under construction.⁶ The appellant's evidence indicates that the remaining undeveloped allocated sites in Dinnington could potentially deliver a further 109 affordable housing units. This equates to 310 units, which is close to 25% of the total housing target for Dinnington across the plan period. Moreover, as Policy CS7 allows for delivery of less than 25% affordable housing in certain circumstances, these figures indicate that

³ Appeal Ref APP/P4415/W/21/3278557, Dismissed 29 December 2021

⁴ Appellant's Appeal Statement on Affordable Housing Needs, Table 5

⁵ Sites at Wentworth Way (RB2019/0837), Throapham (RB2020/1346) and Lodge Lane (RB2022/0880)

⁶ Swinston Hill (RB2022/0880)

the policy is working effectively in delivering affordable housing in line with the expectations of the development plan.

27. In terms of the borough as a whole, the figures on affordable housing delivery are not consistent, with the appellant identifying an average of 192 dwellings per annum since 2018/19 and the Council an average of 210 over the same period. In the same period as covered by the latest Housing Delivery Test (HDT),⁷ the Council's figures show affordable housing delivery of 577 units, an average of 192 which tallies with the appellant's figure. This also equates to some 26% of the total number of units delivered in that period. The Council points to affordable housing delivery of some 33% over the past five years, although I do not have the required figures to confirm this. However, both parties acknowledge an increase in delivery in 2022/23 to 340 (appellant) or 362 (Council), and the Council records above average delivery of 216 units in the 9 months from March to December 2023.⁸
28. In addition, the evidence before me indicates that the Council is performing well in delivering housing generally, with the latest HDT⁹ result being 155% of its requirement over the previous three years. It is also uncontested that the Council can demonstrate a healthy overall housing land supply of over 9.5 years, which indicates that sufficient land is available to continue the supply of housing generally and affordable housing as part of that. Indeed, the Council has indicated that it expects to update its supply to 11.4 years.
29. Ultimately, it is not within the scope of this appeal for me to re-examine the evidence base underpinning the Council's adopted policy. It has been found sound and in conformity with the Framework, and further considered at inquiry where the Council's approach was found to be reasonable. Moreover, the figures put to me indicate that the Council's overall housing strategy is working effectively and affordable housing is being delivered in or around the 25% requirement of Policy CS7, with a healthy housing land supply to give confidence that this will continue. Overall, the evidence before me does not indicate that the Council's approach to affordable housing is unduly constraining delivery or is otherwise inconsistent with the support for affordable housing expressed in the Framework.
30. This aside, the test of Policy CS7(c) is to demonstrate that the identified need cannot be met in a nearby larger settlement. As set out above, the development plan was not adopted on the basis of meeting the unconstrained SHMA figure, and therefore I do not regard the appellant's identified need figure for Dinnington as persuasive, as it is unrelated to the overall housing strategy for Dinnington and sets an unrealistic target that would be impossible for the Council to achieve.
31. The appellant's housing needs survey is otherwise restricted to Woodsetts and does not establish an equivalent level of need arising in Dinnington. The Council refers to the large sites under construction in Dinnington which are expected to deliver some 170 affordable housing units. The appellant challenges that any affordable housing delivered in Dinnington would be required to meet its own needs, but again this is based on a need figure of 57 dwellings per annum derived from the SHMA, which is some 65% of the 87

⁷ 2019/20, 2020/21, 2021/22

⁸ Statement of Common Ground, pgs 22-23

⁹ 2022 HDT

dwelling¹⁰ planned for in Dinnington over the plan period, far in excess of the 25% target of Policy CS7 or even the SHMA suggestion of 35%.

32. Moreover, the Council's Affordable Housing SPD states that it has discretion to ensure that the planning obligation has the most appropriate allocation cascade for that development site. It also points out that in the case of social rented housing, it operates a choices-based letting system based on needs and not locality of residents. In this respect, I am not persuaded that development of affordable housing in Dinnington would automatically be allocated to Dinnington residents, such that the need in Woodsetts would always go unmet.
33. I recognise that Dinnington is specified as an area for growth within the RCS and so is expected to cater for development beyond its own needs over the course of the development plan. However, the evidence from the appellant does not indicate that delivery of housing in Dinnington, both overall and affordable, is falling short of that planned for under the RCS. In the absence of robust evidence as to a specific need arising in Dinnington, I cannot conclude that the developments coming forward there, given the quantum of affordable housing they will deliver and that they are concordant with the approach to affordable housing in the RCS, would not be capable of catering for the limited level of need identified in Woodsetts.
34. I have considered two appeal decisions cited by the appellant. In that at *Colney Heath*¹¹, the Council was found to have a serious shortfall in its overall housing land supply, along with persistent underdelivery of affordable homes. At *Codicote*¹², the Council was in a very poor position with just a 1.47 year housing land supply and affordable housing being delivered at a rate of 18%, below the policy requirement. Both of these decisions present materially different circumstances to the proposal before me, and are not therefore decisive to my conclusions, which I have reached on the specific evidence of the case.

Conclusions on first main issue

35. For the reasons set out, I find that the provisions of Policy CS7 are consistent with the Framework and that Dinnington is a nearby settlement for the purposes of part (c). Moreover, I find that the proposal does not satisfactorily demonstrate that the identified need in Woodsetts could not be met in this nearby larger settlement. Therefore, the proposal does not accord with Policy CS7(c) and would not meet with the requirements to be supported as a rural exception site. Consequently, the proposal would not accord with the exception at Paragraph 154(f) of the Framework and so would represent inappropriate development in the Green Belt.

Openness and Green Belt Purposes

36. The proposal would involve development of an open field at the edge of the built-up area, introducing development where there is none at present and which would be clearly visible from the existing dwellings and public realm on Taylor Drive. Consequently, there would be demonstrable loss of openness both in spatial and visual terms.

¹⁰ Total number of dwellings set out under Policy CS1 (1,300) divided by 15 years.

¹¹ APP/C1950/W/20/3265925 and APP/C1950/W/20/3265926

¹² APP/X1925/W/21/3273701

37. The proposal would also involve a clear incursion of development beyond the settlement edge of Woodsetts and towards the adjacent, looser-knit development of Lindrick to the south. Representations attest to the appeal site acting as a buffer separating the two settlements, although the relevant Green Belt purpose refers to preventing neighbouring *towns* merging into one another, which neither Woodsetts nor Lindrick are. However, development of the site would conflict with the aims of the Green Belt to prevent urban sprawl and keep land permanently open, and conflict with the Green Belt purpose of safeguarding the countryside from encroachment. These are matters weighing further against the proposal.

Other Considerations

38. Although I have found that the proposal would not accord with the requirements for rural exception sites set out in Policy CS7, I recognise the appellant's evidence depicts a significant need for affordable housing generally within the borough. The delivery of a 100% affordable scheme would be a demonstrable benefit that would provide additional housing options for local people and would accord with the Framework's support for housing to meet the needs of different groups. In the circumstances, I afford considerable weight to this benefit.
39. There would be economic benefits arising from the construction of the dwellings through employment for local contractors and tradespeople, though this would be temporary. Some further benefits would accrue from economic activity by future residents in the local area. However, given the small scale of the proposal, these benefits are of limited weight.
40. The location of the site within walking distance of local amenities in Woodsetts means there would be some modest social benefits in terms of new residents sustaining these facilities and contributing to the community. Their proximity would also provide residents with the option to walk or cycle, reducing reliance on the private car. However, any benefits in this respect would be very limited, given that most residents would still require regular trips by car to Dinnington, Worksop or Rotherham for most needs.
41. The proposal is indicated to deliver biodiversity net gain comprising of a 17.81% improvement in habitat units and an 86.5% improvement in hedgerow units. This would exceed the mandatory 10% net gain requirement of the Environment Act 2021 and would accord with the approach to biodiversity of Policies CS20 of the RCS and SP33 of the Sites and Policies Document (June 2018) (the S&PD). However, the small size of the site means the benefits in this respect would be of limited weight.
42. The Council did not refuse permission in terms of other matters, including the design of the dwellings, the effects on landscape character, neighbours' living conditions, highway safety, flood risk and drainage, protected species, land contamination, coal mining risks and archaeology. I have had regard to the evidence before me in these respects, including comments from interested parties, but I have not identified from this any additional material harms or benefits to be weighed into the planning balance.

Planning Obligation

43. The appellant has provided a completed Section 106 agreement which would secure the delivery of the affordable housing units. I am satisfied that the agreement is necessary to make the development acceptable in planning terms and otherwise accords with the tests for planning obligations set out under Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and as expressed in the Framework.

Planning Balance

44. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on openness and on the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
45. As explained above, I give weight varying from modest to considerable to each of the material considerations in support of the proposal. However, I conclude that, taken together, they do not clearly outweigh the harm the scheme would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
46. Although not cited by the Council, my findings in this respect mean that there would also be conflict with Policy CS4 of the RCS and Policy SP2 of the S&PD which reflect the approach of the Framework to development in the Green Belt.
47. The proposal would accord with the development plan in a number of respects, but my conclusions on the main issues means that there would be conflict with the development plan, taken as a whole. Other material considerations, in particular the Framework, do not indicate that permission should be forthcoming other than in accordance with the development plan.

Conclusion

48. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Edgar BA Hons Dip TP MRTPI	Director, DLP Planning Limited
Dr Kirsten Ward BSc (Hons) MA PhD MRTPI	Associate Director, Strategic Planning Research Unit, DLP Planning Limited

FOR THE LOCAL PLANNING AUTHORITY:

Alyn Nicholls BA(Hons) MRTPI	Chartered Town Planner, instructed by LPA
Rob Morrell BA(Hons) MSc	Assistant Development Manager
Helen Sleigh PgDURP MRTPI	Assistant Planning Policy Manager
Lisa Brooks	Development Manager (observed)
Nigel Hancock	Head of Planning and Building Control (observed)

INTERESTED PARTIES:

Monica Carroll	Chair, Woodsetts Parish Council
Dr Belinda Dewsnap	Local Resident
Roger Floutier	Local Resident
Jennifer Floutier	Local Resident
Sarah Pattison	Local Resident

Documents Submitted after the Hearing

- Copy of Council email of 1 May 2024 to appellant with revised wording of conditions
- Copy of Policy SP8 of the S&PD received 2 May 2024
- Copy of appellant email of 3 May 2024 to regarding wording of conditions
- Council response to appellant's Statement on Affordable Housing dated 8 May 2024
 - o Including Extract from Core Strategy Inspector's Report 2014
- Appellant email of 10 May 2024 confirming agreement to list of conditions
- Post-hearing rebuttal statement from appellant dated 15 May 2024
- Copy of completed Section 106 agreement dated 15 May 2024