



Appeal Decision

Hearing held on 22 November 2022 and 6 December 2022

Site visit made on 23 November 2022

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2023

Appeal Ref: APP/J0540/W/21/3287538

Field to the east of Old Pump House, Old Leicester Road, Wansford, Peterborough, Cambridgeshire PE8 6JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Kelland Developments against Peterborough City Council.
 - The application Ref 17/00550/OUT, is dated 26 June 2017.
 - The development proposed is described as the construction of up to 14 prestige self-build dwellings and associated infrastructure with access secured and all other matters (appearance, landscaping, layout and scale) reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application to which this appeal relates was made in outline, with all matters reserved other than the means of access into the site. With the exception of the identified means of access off Old Leicester Road and the adjoining land edged in blue to be set aside for ecological mitigation, the proposed layout and house types contained within the submitted plans are illustrative and have been treated as such for the purposes of my Decision.
3. The appeal has been lodged in response to the Council's failure to issue its decision within the prescribed period. The Council subsequently provided 6 putative reasons which would have formed the basis of its refusal of planning permission had it made its determination. These matters informed the main issues identified for this appeal which were set out in both my Pre-Hearing Note dated 19 October 2022 and opening statement on day 1 of the hearing.
4. The submitted Unilateral Undertaking contains planning obligations to secure the provision of a scheme on adjoining land to offset potential ecological effects and biodiversity net gains along with the delivery of self-build units. Through the submitted Compliance Statement, it has been demonstrated that these obligations are both reasonable and necessary. Overall, this legal document is compatible with all of the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Therefore, I have taken it into account in my assessment. The weight attached to these obligations is set out in the relevant parts of my Decision.

5. The Council's evidence confirms that the appeal site does not fall within a designated Green Wedge and therefore despite the appellant's reference to it, Policy LP26 of the Peterborough Local Plan (2019) ("the Local Plan") has not been relevant to my determination.
6. The documents set out in the attached schedule are all those which were accepted during the course of the hearing. I am satisfied that in doing so, no one has been prejudiced, as these were directly relevant and necessary for my Decision and all parties were given the opportunity to comment on them as required.
7. The appellant has challenged the Council's published housing land supply position. In making my own determination on this disputed matter for the purposes of this appeal, caselaw¹ has made it clear that I am not making an authoritative assessment which binds the local planning authority in other cases.

Main Issues

8. The main issues are:
 - whether or not the provision of new homes in this particular location is supported by the area's adopted spatial strategy
 - the effect of the appeal proposal on the character and appearance of the area
 - the contribution that the appeal proposal will make to meeting identified local housing needs
 - whether or not the appeal proposal constitutes the effective use of land
 - the effect of the appeal proposal on local ecological interests; and
 - whether or not a deliverable 5-year housing land supply exists and the appeal proposal's contribution to this.

Reasons

Spatial strategy

9. Policy LP2 of the Local Plan sets out the spatial strategy for new development. Amongst other things, this development strategy seeks to direct new housing provision to defined Large, Medium and Small Villages that already offer the best range of services and facilities. In general locational terms, the spatial strategy supports proposals falling within their defined village envelopes. Policy LP3 further amplifies how Peterborough intends to grow in the most sustainable and inclusive manner possible. In the Large, Medium and Small Villages land has been allocated and other development is to be limited to infill or redevelopment of sites of an appropriate scale to them.
10. Land beyond those village envelopes is defined as countryside where development will be restricted in order to protect landscape character and maintain and reinforce the distinction between built-up areas and countryside. Some exceptions to this are specified, including residential development which

¹ Shropshire Council v SSCLG and BDW Trading Ltd [2016] EWHC 2733 (Admin).

satisfies the 'exception' test set out in Policy LP8 or development which accords with Policy LP11 of the Local Plan.

11. The proposed development, by virtue of its location, just outside the defined Wansford village envelope, constitutes development in the countryside. Nonetheless, the appeal site enjoys a reasonable level of accessibility to a range of services and facilities capable of meeting daily needs of prospective residents. I also acknowledge that in isolation, the scale of development proposed will not derail the spatial strategy. However, by its nature, the appeal proposal is not a candidate rural exception site which is explicitly supported by Policy LP8. Furthermore, the appeal proposal does not represent any of the exceptions cited in Policy LP11 of the Plan.
12. I acknowledge that the Plan's supporting text confirms that Policy LP8 requires the provision of a wide choice of homes to meet the needs of the community, which could include custom build, self-build, and prestige homes to meet current need identified in the latest Peterborough Strategic Housing Market Assessment ("the SHMA"). However, this part of the policy does not constitute an exception to Policy LP2. Rather it confirms the Local Plan's general intent to secure a balanced housing stock capable of meeting existing and future needs, which may include this particular housing product. The appeal proposal's contribution to this intent is a matter to be weighed in the planning balance.
13. During the hearing discussion it was clear that the final 2 paragraphs of Policy LP9 presents ambiguity. When read as a whole, there is no doubt that this policy affirms the circumstances where a reasonable proportion of prestige homes and serviced plots for custom build and self-build homes will be expected. Even if I were to find that the last paragraph of that policy covers windfall development, the wording is not sufficiently direct to be interpreted as a further intended policy exception to the adopted spatial strategy. Rather, it affirms that the contribution of the appeal proposal to this intent is a matter to be weighed in the planning balance. I address the implications of this later in my Decision.
14. For all of these reasons, the appeal proposal does not conform with the area's spatial strategy set out in Policies SP2 and SP3 of the Local Plan. Moreover, it is not justified as an exception to this by virtue of either Policies LP8, LP9 or LP11 of the Plan. Therefore, I find that the provision of new homes in this particular location is not supported by the area's adopted spatial strategy. This weighs very heavily against the appeal proposal.

Character and appearance

15. The appeal site is an undeveloped, relatively flat, grassed, wedge shaped parcel of land, attached to a larger almost triangular land parcel falling within the appellant's control which has been identified to accommodate environmental mitigation as part of the appeal scheme. Collectively, these land parcels are contained on 3 sides by the local road network. Existing detached dwellings set within generous plots contain its remaining boundary. The appeal site enjoys a high degree of screening from the trees which define its western and southern limits and to a lesser extent its northern edge.
16. The rustic and very intimate nature of Old Leicester Road is defined by the verdancy of the existing mature native vegetation and field systems which flank either side of it. This is counterbalanced by the clearly defined edge of the

existing built-up form of this edge of Wansford which also flanks either side of this route. The resulting consistency on either side of this route creates an immediate and marked contrast between the village and countryside. Crucially, this is a memorable gateway feature which positively defines the identity of this part of the village, creating a strong sense of arrival and departure.

17. Paragraph 130 of the National Planning Policy Framework ("the Framework") states that decisions should be sympathetic to local character, including the surrounding built environment and landscape setting. The National Design Guide ("the NDG") confirms that well designed places are, amongst other things, integrated into their surroundings so they relate well to them, including landscape character, how developments sit within the landscape and the pattern and grain of the existing built form. It recognises that the identity or character of a place comes from the way that the buildings, streets, and landscape combine together and how they are experienced as distinctive and memorable places.
18. The appeal site does not fall within a protected landscape designation. Neither of the main parties have submitted a landscape visual assessment. During the hearing it was confirmed that the Peterborough Landscape Character Assessment 2007 does not make specific reference to the appeal site, although it forms part of the context to the Nene Valley Landscape Character Area. Within this part of the Plan area, necessarily I observed a gently meandering River Nene set within a broad gently sloping valley with pasture and large arable fields and villages with distinctive stone buildings. Beyond the defined village envelopes, development within and surrounding that Character Area tends to be in the form of limited sporadically placed building groups, set within an extensive agriculturally derived context.
19. From my site inspection I was also able to discern and appreciate that the existing physical credentials of this undeveloped site enable it to make a positive contribution to this village's wider verdant open countryside context. It is visually evident that Wansford has developed incrementally outwards from its historic village core. The appeal proposal will significantly extend part of the more recently constructed built form of the village out into its existing immediate countryside context.
20. From surrounding higher points to the south, the built mass of the appeal proposal, and particularly its roofscape, will be evident. However, it will be read within a much larger countryside landscape in the context of the existing buildings on that side of Wansford and its existing surrounding vegetation and road network. Given the existence of existing tree planting, more filtered views of the site will be evident from shorter distance vantage points upon approach to the village along Old Leicester Road. The appeal proposal will be most evident when exiting the village along Old Leicester Road, where it will read as a marked continuation of this contemporary edge of the village on one side of that main route. The proposed access off Old Leicester Road will afford immediate open views into the proposed parts of the site which would become 14 building plots designed to accommodate generous units.
21. The scale of visual and spatial change proposed will substantially alter the character and appearance of the appeal site itself. Crucially, the resulting development will represent an expansion of built development out beyond the existing built form, along one side of this main route. Even at the lower density

proposed, this will be pronounced. As such, it will unduly undermine the relative symmetry and compact grain of the existing built form which creates a very sudden and somewhat abrupt transition between the village and its surrounding countryside context. The resulting visual and spatial changes will be most evident from localised vantage points on approach and exiting one of this village's main gateways. Such a significant change to the character and appearance of this main gateway amounts to an unacceptable level of encroachment into Wansford's prevalent countryside context.

22. For these reasons, the appeal proposal will severely harm the character and appearance of the area. Consequently, the appeal proposal conflicts with paragraph 130 of the Framework.
23. Furthermore, Policy LP16 of the Local Plan expects all proposals to positively contribute to the character and local distinctiveness of the area. Moreover it expects that new development will respect the context of the site and surrounding area, responding appropriately amongst other things to local patterns of development, existing natural features which contribute positively to local character and distinctiveness and existing views into and through the site. Policy LP27 of that Plan states that new development in the countryside should be located and designed in a way that is sensitive to its landscape setting, retaining, enhancing, or restoring the distinctive qualities. Amongst other things proposals should protect the landscape settings of settlements and reflect and enhance local distinctiveness.
24. In view of the harm which I have identified, the appeal proposal conflicts with both of these Local Plan policies. This conflict with both national and local policies weighs very heavily against the appeal proposal.

Local housing needs

25. Given the wording of Policies LP5, LP8 and LP9, when read as a whole, the Plan's approach to future housing provision is clearly one of securing an appropriate mix of housing to meet the varied identified needs within the Peterborough housing market area.
26. In terms of the absence of an affordable housing contribution, I must make my determination on the proposed yield which is before me alongside the relevant policy context.
27. This is an outline proposal with a site yield of 14 dwellings. This yield falls just below the threshold set out in Policy LP8 of the Local Plan, and therefore it is a matter of fact that an affordable housing requirement is not triggered in this instance. Paragraph 56 of the Framework states that planning decisions should expect at least 10% of the total number of homes to be available for affordable home ownership unless, amongst other things, the development is proposed to be developed by people who wish to build or commission their own homes, which is the case here. Furthermore, I note that Policy LP8 enables affordable contributions to be captured by the Council in response to any future attempts to increase the site yield above the policy threshold.
28. For these reasons, the appeal scheme is consistent with both local and national policies relating to affordable housing provision.
29. The appellant has submitted primary and secondary evidence which they believe demonstrates a much greater need for this prestige, self-build product

than the Council's Self-Build Register indicates. I have some sympathy with the appellant's arguments in this regard given their primary evidence collated from the marketing of the appeal site, the single entry on the Self Build Register, the stark contrast this has with the numbers of other surrounding Councils' registers and the Plan's recognition of the relevance of custom and self-build homes as a source of prestige housing stock. Nonetheless, I am also conscious that parties may register on multiple registers in their pursuit for a plot which may give rise to some double counting and that there will be a proportion of site marketing enquiries which will not lead to a transaction.

30. On this basis, the evidence before me is inconclusive in terms of confirming the precise level of demand. However, I concur with the appellant that the need for this housing product in this area will be greater than that asserted by the Council. Although in doing so, I acknowledge that the Local Plan makes provision for the delivery of this specialist housing product within its larger housing site allocations.
31. The Unilateral Undertaking provides an appropriate mechanism to restrict the development of the appeal site to this particular housing product and attracts significant weight in favour of the appeal proposal.
32. I conclude that the appeal proposal will meet a specific housing need for self-build plots and is also capable of boosting the supply of prestige homes, which is an issue which the Local Plan seeks to cover. I address the level of benefit and the weight that this matter attracts later in my Decision.
33. Overall, based on the evidence which is before me I conclude that the appeal proposal will make an appropriate contribution to addressing identified local housing needs. Consequently, there is no conflict with Policy LP8 and LP9 of the Local Plan in this regard, the Framework's approach to meeting specific local housing needs or Section 1 of the Self-build and Custom Housebuilding Act 2015 (as amended).

Land use effectiveness

34. The appeal proposal involves the development of a previously undeveloped site at a low density. Paragraph 119 of the Framework states that decisions should promote the effective use of land in meeting the need for homes. However, paragraph 124 goes on to confirm support for development that makes efficient use of land, taking into account the identified need for different types of housing, as well as the availability of suitable land, the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive places.
35. In view of the appeal site's exposed edge of settlement location and the scale and density of its surrounding built context, a greater density scheme would conflict with the Framework's explicit desirability of maintaining the area's existing prevailing lower density character. Moreover, there is no moratorium on the development of previously undeveloped land. Furthermore, I have already concluded that the appeal proposal will contribute to meeting a particular identified housing need.
36. For these reasons, the appeal proposal does not constitute the ineffective use of land. Consequently, it does not conflict with Policy LP16 of the Local Plan or paragraphs 119 and 124 of the Framework.

Ecological interests

37. The appeal proposal relates to an outline scheme, with some matters which will influence the ecological outcomes of the proposed development reserved for future consideration. The submitted Unilateral Undertaking, sets how the adjoining proposed ecological offset land would be secured, managed, and maintained in perpetuity. I am satisfied that these arrangements are appropriate and could be delivered in a manner that will be effective in securing a biodiversity net-gain and mitigating any recreational pressure on the Wansford Pasture Site of Special Scientific Interest ("the SSSI").
38. Overall, the evidence before me has clearly demonstrated that there are no insurmountable issues for the reserved matters stage that would harm local ecological interests pertaining to the appeal site.
39. In the absence of harm, subject to that legal undertaking and a suitably worded planning condition to necessarily manage the proposed mitigation measures, there is no conflict with Policy LP28 of the Local Plan in this regard.

Housing land supply position

40. According to the main parties' submitted Housing Statement of Common Ground, the agreed starting point for the housing land supply position is a housing requirement of 5,156 units for the 5-year period of 1 April 2021 to 31 March 2027. The appellant has calculated that the housing land supply position is 3.67 years whereas the Council has maintained a position of 5.42 years. The Council has assessed that there are 4,710 homes in the deliverable supply. The appellant asserts that this supply stands at no more than 3,804 homes.
41. This disputed matter is essentially centred around whether the oversupply of homes that has occurred since the Local Plan was adopted should be offset against that housing requirement, the older persons' conversion ratio for Use Class C2 uses to be relied upon and also the deliverability of several sites within the Council's trajectory.

Housing requirement

42. From my reading of the Planning Practice Guidance ("the PPG"), the appropriate ratio to apply when converting Use Class C2 uses to dwellings is, as the appellant asserts, 1.86. In terms of the housing requirement component of the housing land supply calculation, my acceptance of the appellant's approach to the Use Class C2 conversion ratio causes an upward adjustment of 16 units to the Council's housing requirement.
43. I note that the supporting text to the Local Plan states that any surplus or backlog should be dealt with over the next 5 years. Subsequent to the adoption of that Plan caselaw² has confirmed, that amongst other things, there is no requirement in the Framework for the identified oversupply to be considered at all, although the exercise of planning judgement by the decision-maker as to whether to take oversupply into account is called for. This Judgement also confirms that there may be several ways of dealing with oversupply, so it is not

² Tewkesbury Borough Council v SSHCLG, J J Gallagher Limited and Richard Cook [2021] EWHC 2782 (Admin)

simply a binary choice. Moreover, both the Framework and the PPG are currently silent on this particular matter. The recently published planning reform proposal relating to this issue has not reached a stage that commands any weight.

44. Depending upon how the oversupply is treated the housing requirement for the relevant 5-year period lies somewhere between 5,172 units and 4,401 units. Overall, when calculating the adjusted housing supply and requirement figures the housing land supply position for the relevant 5-year period is a 542-unit shortfall at worst and a 229-unit surplus at best. Indeed, there is a further approach open to me of adjusting the housing requirement over the remainder of the plan period in light of the oversupply which would further narrow the difference between these 2 positions.
45. Crucially, the respective arguments made through the course of this appeal concerning the most appropriate approach to dealing with the oversupply are inconclusive.

Supply

46. When applying the appropriate ratio for converting Use Class C2 uses to dwellings in line with the appellant's evidence, this has the effect of reducing the Council's deliverable supply by 10 units.
47. Although Site No 170 is allocated in the Local Plan, clear evidence has not been provided by the Council to demonstrate that housing completions will begin on site within 5 years in line with the definition of deliverable set out in the Framework. This reduces the Council's supply position by a further 70 units.
48. The Council firmly asserts that, despite the appellant's challenges to its lawfulness, Site No 166 has the benefit of planning permission and subsequent to that decision the period for legal challenge has elapsed. During the hearing sessions the Council stated that it did not intend to take any action which would erase this site from their supply. It falls beyond the scope of this appeal for me to determine whether or not any enforcement proceedings are warranted. For the purposes of this appeal, there is no firm basis for me to conclude that site No 166, which forms part of a wider long standing strategic local plan allocation currently under construction, would not continue to deliver homes as and when the Council predicts. This finding increases the appellant's deliverable supply figure by 480 units.
49. Overall, other than Site No 170, the Council has clearly demonstrated through the course of this appeal that the supply they rely upon is deliverable in accordance with the definition set out in the Framework's glossary. Consequently, based upon the evidence before me, I conclude that the deliverable supply is 4630 units.

Current housing land supply position

50. Based on my findings on the disputed matters the housing land supply is between 4.48 years and 5.26 years. Even if I were to accept the appellant's stance on the approach to how the past oversupply should be treated, that worst case position of 4.48 years would amount to a limited shortfall and the weight which this attracts is addressed later in my Decision.

Other Matters

51. In addition to the housing supply benefits identified earlier, the main parties have agreed the scope of the other benefits which would arise from the appeal proposal.
52. It is agreed between the main parties that the appeal proposal will result in expenditure on construction and investment as well as the creation of construction jobs and homes for economically active people. I have no cause to dispute that, albeit the nature and scale of the appeal proposal limits the overall contribution. Nonetheless, in line with paragraph 81 of the Framework I attach significant weight to this benefit overall.
53. I acknowledge that the mitigation measures on adjoining land which would be secured through the submitted Unilateral Undertaking will result in the provision of publicly accessible open space above the level required by current local policy. Furthermore, the upgrading of the existing footpath along Old Leicester Road will create a safer and more attractive walking route connecting to the proposed off-site recreational provision. During the hearing I learned that access to the SSSI was restricted. However, in the longer term the appeal scheme also has scope to divert members of the public away from the SSSI, thus reducing recreational pressure upon it. I attach moderate weight to each of these benefits.
54. I also acknowledge that native planting including succession planting along Old Leicester Road and wider landscaping enhancements could be secured at the reserved matters stage. As these works would be beneficial for reasons over and above mitigating the visual impact of the appeal scheme, I attach moderate weight to these matters.

Planning balance

55. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed.
56. However, even if I were to accept the appellant's stance on the approach to housing oversupply, that worst case housing land supply position amounts to a limited shortfall in the 5-year housing land supply. Whilst significant, the contribution that the appeal proposal would make to that limited shortfall carries moderate weight in favour of the appeal proposal. I have also found that the appeal proposal will make a contribution to local housing needs for both prestigious and self-build housing products, which has associated social and economic benefits for the area. However, given the uncertainty over the level of those particular housing needs and the fact that the Local Plan makes provision for them in any event, whilst significant, these benefits each weigh moderately in favour of the appeal proposal. I have also identified that the appeal proposal will provide limited economic benefits which attract significant weight, and a range of other benefits, each of which attract moderate weight.
57. Nonetheless, I have also identified that the appeal proposal will conflict with the spatial strategy for the area set out in Policy LP2 and LP3 of the Local Plan. It will also cause serious harm to the character and appearance of the area which conflicts with Policies LP16 and LP27 of that Plan. Those policies are up to date and continue to carry full weight.

58. Crucially, the severe harm to the character and appearance of the area which would arise as a consequence of deviating from the adopted spatial strategy, is not significantly and demonstrably outweighed by the identified benefits. Consequently, paragraph 11(d) of the Framework does not weigh in favour of this particular appeal proposal.

Conclusion

59. In view of the significant local policy conflicts that I have identified, the appeal proposal conflicts with the development plan when taken as a whole. There are no matters weighing in favour of the appeal proposal, including the contribution that the appeal proposal will make to addressing both the housing land supply shortfall and particular local housing needs, to justify allowing this proposed development contrary to the development plan.

60. I therefore conclude that the appeal should be dismissed, and planning permission be refused.

C Dillon

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Hunter	Barrister, Kings Chambers
Mr D Hutchinson	Pegasus Group
Mr M Henderson	Pegasus Group

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Croucher	Peterborough City Council
Ms G Wildman	Peterborough City Council

INTERESTED PARTIES:

Mr J Stannage	Wansford Parish Council
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DOCUMENTS ACCEPTED DURING HEARING

Council's submissions:

Housing Land Supply Hearing Statement Addendum

Hearing Statement relating to development at Hampton Five Year Supply- Updated information Great Haddon and Hampton

Peterborough Local Plan Policy LP35

Appellant's submissions:

Housing Land Supply Statement Supplementary Note to LPA's further evidence and appendices.

Hampton Supplementary Note and Appendices

Breakdown of Hampton site residual numbers

Joint submissions:

Housing Land Supply Statement of Common Ground

Response to Inspector's comments on suggested conditions

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