Appeal Decision

Hearing held on 21 February 2012
Site visit made on the same day

by Isobel McCretton  BA(Hons) MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 September 2012

Appeal Ref: APP/Z2830/A/11/2163947
Firs Field, to the south of Litchborough Road, Bugbrooke

- 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 Heygate and Sons against the decision of South Northants District Council.
- The development proposed is 70 houses.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was in outline with all matters other than access reserved for future determination. The application was accompanied by an indicative scheme which I have taken into account in coming to my decision.

3. Shortly after the Hearing, an appeal decision relating to land off Johns Road and Pilgrims Lane, Bugbrooke, which had been referred to at the Hearing, was issued. Also, the Government published the National Planning Policy Framework (the Framework). These documents are material considerations in my determination of this appeal and the main parties were afforded the opportunity to make further written representations on these matters which I have taken into account.

4. As agreed at the Hearing, a revised s106 Unilateral Undertaking was subsequently submitted by the appellants. However, as the appeal is to be dismissed on the substantive merits of the case, it is not necessary for me to consider this in relation to the Community Infrastructure Levy Regulations 2010 and the Framework, or in terms of the additional ‘wish list’ put forward by the Parish Council.

5. At the Hearing British Waterways (BW) expressed the view that some of the land within the landscaping area shown along the towpath on the indicative drawing was in their ownership. After the Hearing that was found to be the case by the appellants and BW. The appellants therefore served the appropriate notice on BW. As BW were clearly aware of the planning application, I do not consider that any interests were prejudiced by this being

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1 APP/Z2830/A/11/2159377 dated 15 March 2012

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carried out late in the planning process, though there could be implications for the implementation of any landscaping scheme along this boundary. Nonetheless, landscaping is a reserved matter and this could be taken into account in the submission of details.

Main Issue

6. The main issue in this case is the effect of the proposed development on the character and appearance of the area, having regard to national and development plan policy in respect of the location of new housing and the protection of the countryside.

Reasons

7. The appeal site, predominantly an arable field, sits on the south western side of Bugbrooke, and fronts onto the B4525 Litchborough Road. To the west is the Grand Union Canal, while along part of the eastern boundary is a house and garden (The Firs). To the south is further agricultural land. Along the remainder of the eastern boundary is part of a site, again fronting Litchborough Road and adjoining houses in Peace Hill, for which there is an extant planning permission for 31 houses, and a site which is the subject of a separate appeal involving the development of 17 houses. The latter site adjoins houses in The Leys.

8. It is proposed to develop 70 houses on the appeal site. Access would be from Litchbrooke Road, slightly to the east of the existing field access so as to achieve better visibility. The indicative layout submitted with the planning application also shows an amenity area with a pond, a landscaped buffer along the boundary with the canal towpath and a footpath from the southern part of the site linking to West End.

9. Local Plan policy G2 sets out that new development will be concentrated in Towcester and Brackley, limited in the villages and severely restrained in the open countryside. Residential development is directed to the built up areas of Towcester and Brackley (policy H3). Policy H5 allows for some limited housing development within the village confines of the Restricted Infill Villages which include Bugbrooke. The site is outside the defined Village Confines Boundary for Bugbrooke and so its development would be contrary to adopted Local Plan policy. Nonetheless, the Framework contains a presumption in favour of sustainable development and housing applications should be considered in this context.

Housing Land Supply

10. The Framework charges local planning authorities ‘to boost significantly the supply of housing’. It requires local authorities to identify and update annually a supply of specific, deliverable sites, sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. It goes on to say that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

2 South Northamptonshire Local Plan (1997)
11. When the relevant part of the Localism Act is brought into force, the East Midlands Regional Plan, the Regional Spatial Strategy (RSS) will be revoked. Until such time it provides an appropriate basis for determining the housing requirements of the District. The West Northamptonshire JPU Strategic Housing Land Availability Assessment\(^3\) (SHLAA), while favoured by the Council as a local, achievable, delivery based approach to inform subsequent plan making, has not yet replaced its own Housing Land Availability Study (HLAS) which is based on the RSS.

12. The housing requirement for 2001-2026 identified in the HLAS is for 330 completions/year. During the first 10 years of the RSS there was a shortfall of 568\(^4\) completions. There are differing views between the Council and the appellants as to how the shortfall should be dealt with: the Council considers it appropriate to spread the shortfall over the remaining 15 years of the RSS, whereas the appellants argue that, in view of the imperative to identify land and deliver new housing embodied in the Framework, it should be addressed sooner.

13. There is no definitive guidance as to which approach should be taken, but the thrust of Government policy to deliver new housing and economic growth urgently carries significant weight in my assessment of the housing land supply situation. Although it is evident that, after the abolition of the RSS, the Council is likely to adopt a different approach to housing provision through its Core Strategy, to accord with the aims of Government policy I consider there is a more urgent need to address the shortfall. When the shortfall is not backloaded, the appellants have shown that the Council’s housing land supply falls below the 5 years plus 5% figure required by the Framework.

14. The Council’s housing figures rely heavily on the rate of delivery from just a few large sites. Since the April 2011 HLAS it seems that these are not coming on stream as fast as originally envisaged and there is some doubt as to how readily available they are. The Council disagrees with the appellants’ view as to the rate of delivery from these sites and considers that sufficient housing will result over the 5 year period to meet the target figures. Although the Council has tried to make realistic assumptions about delivery from these sites, given the general slow down in the housing market and the fact that delivery is already falling behind what was envisaged at the time of the April 2011 report, I consider that this casts further doubt as to whether a 5 year housing supply of readily available sites (plus 5%) can be achieved.

15. There is also disagreement as to whether windfalls should be included in the housing land supply figures. Previously it has been accepted in other appeal decisions that the Council has sound reason for the inclusion of a windfall allowance because South Northamptonshire is a predominantly rural district where it is not practicable to carry out a capacity study for each of its villages. The appellants argue that this has now been done in the SHLAA. However the purpose of that document is to inform future policy of the Core Strategy and, as the Council argues the SHLAA is produced on a different basis from the RSS targets on which the HLAS is based. I therefore consider that at this stage the windfall allowance is reasonable. Nevertheless, this does not outweigh the concerns outlined above.

\(^3\) West Northamptonshire Joint Planning Unit Strategic Housing Land Availability Assessment Final Report (January 2012) (SHLAA)
\(^4\) There was an error in the originally submitted figures which gave this as 598 dwellings
16. Overall, I find that there is reason to suppose that there is a shortfall in the 5 year plus 5% supply of housing land in the District. As such, and particularly in view of the presumption in favour of sustainable development set out in Framework, the proposal falls to be considered under the Interim Rural Housing Planning Policy (IRHPP).

Interim Rural Housing Planning Policy

17. In response to the shortfall in housing land availability at the time, in July 2009 the Council adopted the IRHPP to assist in meeting housing targets until such time as a 5 year supply of land could be identified. The IRHPP set an indicative figure for new housing which would be permitted in a number of villages across the District. It was recognised that there were unlikely to be sufficient brownfield sites to accommodate such development within the villages so that development on greenfield sites, outside the village confines boundaries designated in the Local Plan, might be necessary. The IRHPP allocates a figure of 111 houses to Bugbrooke.

18. The IRHPP covers housing in sites outside, but adjoining, the village confines of those villages that are considered most sustainable or reasonably sustainable. Housing will be permitted where a number of criteria are met and which I consider in turn below.

19. **It can be demonstrated that there are no suitable and deliverable brownfield sites available within or adjoining the village confines:** There is no evidence that there are such sites within or adjoining Bugbrooke.

20. **The suitability of any proposed extension to the existing settlement form in terms of the consolidation of an existing village confine boundary or formation of a sound alternative boundary that reflects and respects natural or other long term features can be demonstrated:** The Design and Access Statement (DAS) submitted with the planning application states that the proposed development forms an obvious extension of the village, providing a link to the substantial existing developed to the west and therefore a strong alternative boundary to the village.

21. However, at present, the appeal site adjoins an isolated house and two potential housing sites which have yet to be developed. Whether or not those sites have the benefit of planning permission, there is no guarantee that they will be developed, or that they will be developed in advance of the appeal site. Until such time as those other two sites are built out, the appeal site is only linked to the defined village confines boundary of Bugbrooke by the somewhat artificial construct of the provision of a footpath link (which would be a permissive path and not a public right of way) only part of which would run along the village boundary.

22. On its western side the site borders the Grand Union Canal. I recognise that there is development on the other side of the canal, including a period house, 5 modern dwellings, a pub, small marina and a commercial site. Even so, that, for the most part, is canal-related development (the 5 houses were on a brownfield site), well outside the confines of the village and separated from it by the strong physical boundary of the canal and open fields. It seems to me that development of the appeal site as proposed would have the effect of extending the village boundary to beyond the other side of the canal and into the Special Landscape Area, even if a landscape buffer were provided alongside
the canal boundary as shown in the indicative scheme. Without the development of the intervening sites it would consolidate development away from the village boundary and be harmful to the character and appearance of the rural area. At present the site does not adjoin the defined village confines boundary and so I do not consider that it would consolidate the existing village boundary or form a sound alternative.

23. The scale of the proposal either individually or cumulatively with other sites granted planning permission since April 1st 2009 does not exceed the percentage of the existing number of dwellings within that village (the indicative target for Bugbrooke is 111 dwellings) except where it can be demonstrated that the proposal would result in improvements on the site including for example the re-use of previously developed land and best practice in density and design issues; or is required to support the retention of or improvement to essential local services that may be under threat (in particular the local primary school or primary health services); and has been formulated with meaningful discussions with the appropriate parish council at the pre-application stage:

24. With the permission recently granted for the John’s Road site and the extant Peace Hill permission, as a matter of fact the indicative target of 111 houses set for Bugbrooke is taken up. Approval for the second Peace Hill site would mean that it would be exceeded. I have seen the legal opinion submitted by one of the local residents regarding the consideration of further sites which would mean that the indicative threshold could be exceeded but, in any event, as set out above the IRHPP allows for the threshold to be exceeded subject to certain conditions.

25. However the appeal site is not previously developed land and there is no evidence before me to show that the site is needed to support the retention of, or improvement to, essential local services that are under threat.

26. The Parish Council has expressed a preference for this site to be developed rather than the Johns Road site. At the Hearing it was suggested that this was mainly on the basis of the relative weight of local objection to the proposals rather than because of detailed planning considerations. I note that the Parish Council’s written representations make clear its opposition to the development of the site outside the village boundary. Even so, it acknowledges that previously, in the context of the application of the IRHPP, it has reluctantly accepted the appeal site as the ‘least worst’ of the major applications submitted at the time (the others being the sites already referred to in this Decision) as this would balance out the village and re-instate the High Street as the village centre. The Parish Council would also seek other benefits for the village as part of a s106 Agreement.

27. With regard to design and density, there is little in the submitted DAS to show how the design of the proposal has been informed by the wider context, or what the scale parameters of the proposal are to be. This was not part of the Council’s case as it had objected in principle to the development on the basis that the IRHPP would not apply as it considered a 5 year supply of land could be demonstrated, but the matter was raised in other representations.

28. I appreciate that the layout before me is an indicative scheme, but it gives an idea as to how the quantum of development proposed would be accommodated on the site. In the DAS it is stated that the density would be 36 units/hectare,
with dwellings 2-2½ storeys in height, but no indication is given of, say, their overall height and size etc. There would be a buffer strip up to 10 metres wide along the 260 metre frontage to the Grand Union Canal, reinforced planting along the boundaries, an amenity area and footpath links to the canal and a path to the village. Although there is a landscape study, no analysis is given of wider design issues such as why this would be an appropriate density for development on the site, what dwelling mix would meet identified local needs or whether the estate type layout shown in the indicative plans would be an acceptable form of development for the site in response to its location. BW has also expressed concern about the effect of planting too close to the embankment which could affect its integrity and the impact of providing a number of new pedestrian access points onto the towpath.

29. Especially in view of the sensitive nature of the site, adjoining the open countryside, the canal and the Special Landscape Area, with such little contextual appraisal the proposal cannot be said to exhibit best practice in design and density issues as required by the IRHPP if proposals over and above the indicative threshold are to be favourably considered. The Framework contains a presumption in favour of sustainable development and Bugbrooke has been identified among the ‘most sustainable’ of the District’s villages. However the Framework also places considerable emphasis on the need for good design. It advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. In my view this matter has not be adequately addressed.

30. There is no reason to suppose that the site is not deliverable if planning permission is granted, thus contributing to the 5 year supply of housing land. Provision would be made for 40% of the units to be affordable housing and the submitted Unilateral Undertaking could secure contributions to necessary infrastructure. Nevertheless, overall I find that the proposal would not accord with several of the requirements of the IRHPP; it would not consolidate the existing village boundary or form a sound alternative boundary which reflects and respects natural or other long term features; it would not meet the additional criteria set out in the policy if the indicative threshold for additional houses is to be exceeded in terms of best practice in design and density issues, the re-use of previously developed land or being needed to support the retention of essential local services.

31. I therefore conclude that the proposed development, outside the village confines, would be harmful to the character and appearance of the rural area and would not accord with the policies of the Local Plan, the IRHPP or the Framework.

Other Matters

32. The proposed footpath link from the site is shown meeting footpath KD21 at a point to the east of West End. At present KD21 runs through the garden of no.31 West End and the occupier of that property has pointed out that there would be 2 sections to KD21 if the new path were to be constructed as shown. I do not find that this is problem which affects the proposal which is for a permissive footpath rather than a public right of way. The status of KD21 would remain unchanged. However, if planning permission were to be granted, there may be scope for negotiation on this matter to enable the occupier of no.31 to have the footpath diverted from his garden.
Conclusion

33. Although the Framework supports sustainable development to enable housing delivery and economic growth, it also seeks to promote good design. I have found that the harm to the character and appearance of the rural area is not outweighed by the need to provide for additional housing land in this instance.

34. For the reasons given above I conclude that the appeal should be dismissed.

_Isobel McCretton_

INSPECTOR
APPEARANCES

FOR THE APPELLANT:

Peter Frampton Framptons, Chartered Surveyors
Charles Haselwood Fisher German, Chartered Surveyors (Appellants’ Land Agent)

FOR THE LOCAL PLANNING AUTHORITY:

Shaun Greaves GC Planning Partnership
Andrew D’Arcy BA(Hons), MRTPI Planning Policy Lead Officer South Northamptonshire Council (SNC)

INTERESTED PERSONS:

Ian Dickinson British Waterways
Laurence Wilbraham DipTP, MRTPI Wilbraham Associates (agent for site at John’s Road/Pilgrim’s Lane)
Cllr Stephen Clarke SNC
Cllr David Harries SNC
John Curtis Chair, Bugbrooke Parish Council
John Mundy Chair Bugbrooke Cricket Club
Andrew Bodman Local Resident
Julian Howard Local Resident

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1 Copy of Unilateral Undertaking
Document 2 Statement from Mr Bodman with attached legal opinion
Document 3 Council’s updated 5 year housing land supply
Document 4 Appellants’ 5 year Housing Delivery Supply Assessment (February 2012)
Document 5 Schedule of housing sites suitability/delivery trajectory submitted by the Council

DRAWINGS:

A1-4 Drawings submitted with the planning application (site plan, indicative layout, street scene, appraisal)

B1 Extract from the Local Plan (Inset 19: Bugbrooke)