Appeal Decision

Inquiry held on 16 and 17 October 2013
Site visit made on 17 October 2013

by Tim Wood  BA(Hons) BTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 January 2014

Appeal Ref: APP/K2610/A/13/2198950
Land off Wyngates, Blofield, Norwich, Norfolk NR13 4JG

- 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 Norfolk Homes Ltd against the decision of Broadland District Council.
- The application Ref 20130296, dated 4 March 2013, was refused by notice dated 22 May 2013.
- The development proposed is the erection of 64 dwellings with associated garages and amenity work, together with public open space.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 64 dwellings with associated garages and amenity work, together with public open space at Land off Wyngates, Blofield, Norwich, Norfolk NR13 4JG in accordance with the terms of the application, Ref 20130296, dated 4 March 2013, subject to the conditions set out in Schedule 1 of this decision.

Preliminary Matter

2. It was agreed that comments on the Inspector’s report in relation to the then remitted parts of the JCS would be invited and considered for this appeal. I have taken account of the comments received from the main parties and all interested local groups and people.

Application for costs

3. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues in this appeal are as follows;

- What is the extent of and implications for the shortfall in relation to a 5 years housing land supply,
- Whether the proposal is appropriate and sustainable, having regard to policies for residential development,
- Whether the proposal would be premature to the adoption of the Site Allocations DPD and would not be plan-led.
Reasons

**What is the extent of the shortfall in relation to a 5 years housing land supply**

5. The main parties accept that the Council cannot demonstrate a 5 year supply of housing land, either for the Norwich Policy Area (NPA) as a whole or for the Broadlands part of it. The figures put forward by the Council and the appellant and others vary as a result of the inclusion of either a 5% or a 20% buffer, and whether either the Liverpool or Sedgefield methods of distributing a backlog is employed. In short, for the NPA figures ranged from 4.58 years to 3.06 years and for the Broadlands part of the NPA from 2.24 years to 1.44 years.

6. It is noted that the Inspector who examined the previously remitted parts of the JCS has acknowledged that, for plan-making purposes, it is appropriate to include a 5% buffer and that the Liverpool method of addressing a backlog is appropriate. There is also some support from previous appeal cases which indicates that the relevant area to consider for housing land supply is the NPA as a whole, although they also refer to figures for the individual local authorities. However, on any reading of the figures, there is a shortfall and one which can be described as “significant” using the term as the recent JCS Inspector has done in his proposed Policy 22 (now adopted by the constituent planning authorities).

7. In circumstances where an authority cannot demonstrate a 5 year supply of housing land the Framework advises that relevant policies for the supply of housing land should not be considered up-to-date. It adds that if this is the case permission for development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. I consider that Policies 9, 12 and 14 of the JCS are out of date insofar as they seek to allocate specific numbers of dwellings to particular settlements but that they are up-to-date as far as they indicate a hierarchy based on degrees of sustainability.

**Whether the proposal is appropriate and sustainable, having regard to policies for residential development**

8. Policy 7 of the JCS seeks to address community cohesion and ensure that facilities and services are available locally to residents. Blofield is identified as a Key Service Centre (KSC) within the settlement hierarchy, wherein it sits below the Norwich urban area and the Main Towns, but above Service Villages and Other Villages. The village provides a number of services and some employment opportunities and a primary school. A secondary school and employment opportunities at nearby business centres are readily accessible by public transport. In evidence, the Council accept that Blofield is a sustainable location for more housing development.

9. According to the figures presented by the Council, planning permission exists for a total of 197 additional dwellings in Blofield. It is stated that this could lead to a 25% increase in the population of the village, and rise to a suggested 33% increase if this appeal is allowed. The Council suggest that such an increase would lead to a disparity between the local population and local facilities and services and in support of this stance, refer to representations made by the local GP’s surgery. Apart from the correspondence from the GP, the Council produced no evidence to suggest that the existing facilities...
available to the local population are at or near capacity, or that the increase in population resulting from the proposed development would result in the same. In the light of this, I agree with the appellant that it is more likely that the additional patronage of some local services could have a positive effect.

10. In relation to the GP practice, the appellant states that it is still accepting new patients, it previously operated with 5 full-time doctors but now with 3 and one part time (3.75 full-time equivalent) and that the doctor to patient ratio is amongst the lowest in the KSCs. Furthermore, Blofield falls within the catchment area of another GP practice. The appellants add that it would be an option available to the GPs to expand their practice with either public or private funding, if necessary. None of these matters were challenged by the Council or others present at the Inquiry. As a result of this and other matters, I find that there is no evidence before me to lead to a conclusion that the proposal would give rise to an unacceptable imbalance of residents and services. Therefore, the proposal is not in conflict with the aims of Policy 7 of the JCS.

11. The appeal site is outside the defined envelope of the village; however, it is bounded on 3 sides by residential development and the proposed substantial area of public open space would be at the open end of the site, to the north. There is no landscape or visual harm alleged by the Council and I find that, in the physical sense, the proposal would sit comfortably next to the remainder of the village.

12. I have already found that the site and village is a sustainable one and place weight on this conclusion. In relation to the hierarchy of settlements, I do not consider that the scale of development proposed would disrupt the place of Blofield within the hierarchy and, given that the specific parts of those policies which seek to establish the scale of residential development in various settlements are out of date, I consider that the proposal represents sustainable development, in accordance with paragraphs 49 and 14 of the Framework.

13. Furthermore, it is notable that Policy 14 states that a minimum of 50 dwellings may be appropriate for Blofield; an additional 2000 dwellings, at least, is provided for to be located within the Broadlands part of the NPA and outside the growth triangle which takes out much of the urban fringe and leaves Blofield as 1 of only 2 KSCs. In this context I do not see it as inappropriate that a number significantly greater than 50 dwellings may be acceptably accommodated by Blofield.

**Whether the proposal would be premature to the adoption of the Site Allocations DPD and would not be plan-led**

14. The Council state that the approval of this proposal would be premature to the adoption of the Site Allocations DPD (SADPD) as it would make a decision of the location and amount of development in Blofield outside the development plan system. The SADPD was recently the subject of consultation, which ended in September 2013 and it is estimated that adoption could be in late 2014 or early 2015.

15. The Government document *The Planning System: General Principles* sets out the approach to questions of prematurity, stating that it may be justifiable to refuse planning permission where a DPD is being prepared if a proposal is so substantial or the cumulative effect would be so significant that granting planning permission would pre-determine decisions about the scale, location or
phasing of new development. In this context, although the proposal is not one which I would consider to be substantial, the approval of this appeal scheme would have some effect on future decisions about the location and scale of future housing development in Blofield. However, the adoption of the SADPD is some way off and the small effect that I envisage is far outweighed by the assistance that the proposed development would bring to the aim of providing a suitable supply of new homes in the near future.

16. The allegation that the proposal would undermine a plan-led system should be seen in the light of the fact that the inability to demonstrate a 5 years supply of housing land means that those relevant development plan policies are out of date. Effectively, the situation that the Council is in prevents certain development plan policies from being given full weight. In these circumstances, I find that the proposal represents sustainable development for which there is a presumption in favour, as set out in paragraph 14 of the Framework; wherein, if a development plan is out of date permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case, I find only limited harm in relation to the prematurity argument and harm which is insufficient to outweigh its benefits.

Other Matters

17. A completed Agreement has been submitted which contains provisions for affordable housing and the provision and future maintenance of the open space. I am satisfied that these matters are relevant to the proposal and of an appropriate scale. They are necessary to make the proposal acceptable in planning terms and so I conclude that its provisions meet the tests in Regulation 122 of the CIL Regs.

18. Although not forming part of the Council’s case, others raised the potential for unacceptable overlooking from the proposed dwellings into existing properties. I carefully assessed this at the site visit and conclude that there would be an acceptable degree of separation such that there would be no unreasonable effects in this respect.

Conditions

19. I have considered the conditions suggested by the parties having regard to the advice in Circular 11/95 ‘The Use of Conditions in Planning Permissions’. In order to ensure that the development has an acceptable appearance within its setting, it is necessary to require that the proposed external materials and landscaping are in an agreed form, including any works to existing trees. For the same reason and in order to make sure that no unacceptable effects result on the neighbours of the site, the proposed ground levels and levels of the new buildings should be agreed.

20. To contribute to a sustainable form of development water efficiency measures and measures to secure the use of decentralised, renewable or low carbon energy sources should be included. Details and the timely provision of water hydrants, the roads and footpaths should also be agreed in order to ensure a satisfactory form of development. The proposed off-site highway works should also be agreed and constructed in a timely manner for the sake of highway safety. In order to ensure that the development is satisfactorily drained measures for surface and foul drainage should be to an agreed design. In the
interests of proper planning and for the avoidance of doubt I shall include a
condition which requires the development to be undertaken in accordance with
the approved plans.

21. In relation to the need for a condition relating to noise levels within the
dwellings and their gardens, the unacceptable levels indicated only intrude
within the very north eastern most part of the site. With the proposed bund
and the screening effects of the houses themselves, I judge that the gardens
would not be subjected to unreasonable noise and the need for limits for the
inside of the houses is unnecessary.

Conclusions

22. The appeal site is within a sustainable location where future residents would
have reasonable access to shops, services, employment opportunities and
public transport. The absence of a demonstrable 5 years supply of housing
land means that relevant policies are out of date. In this context, the benefits
of the proposal for a sustainable form of development are not significantly and
demonstrably outweighed by any negative effects. Therefore, the appeal is
allowed.

S T Wood
INSPECTOR
APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

C Skinner
  He called
  G Beaumont
Norfolk County Council
  Senior Planning Officer

FOR THE APPELLANT:

P Shadarevian of Counsel
  He called
  T Harper
  S Wheatman
Appellant company
Wheatman Planning

RULE 6 PARTY:

D Churchill
  C Banner
  Iceni Projects
  of Counsel

INTERESTED PERSONS:

J McDougall
  Representing numerous local residents
D Ward
  Blofield Parish Council

DOCUMENTS

1 Signed Statement of Common Ground
2 Agreed schedule of plans
3 Planning Committee report for Sharps Hall Farm, Horsford
4 Draft Policy Statement on Determination of Housing
  Developments Promoted in Advance of the Emerging Local Plan
5 Broadland residential land update
6 Table relating to developments in Blofield
7 Completed Planning Obligation
8 ‘Cheshire East 1’ Judgement
9 ‘Cheshire East 2’ Judgement
10 Tewksbury Judgement
11 Stratford On Avon Judgement
12 Committee minutes for Sharps Hall Farm, Horsford
13 Sheet entitled ‘Housing Land Supply Figures for NPA’
SCHEDULE 1, Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: details of the proposed acoustic bund along the northern edge of the development; details of the open space to be provided on site; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc).

4) Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

5) All landscaping works shall be implemented in accordance with the approved details, including the implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

6) The development hereby approved shall take place in accordance with the Arboricultural Impact Assessment and associated appendices numbered 1 to 6 inclusive, undertaken by A T Coombes Associates, dated 19 February 2013.

7) No development shall be undertaken until details of existing and proposed ground levels and ground floor slab levels have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

8) No development shall be undertaken until details of water efficiency measures have been submitted to and approved in writing by the local planning authority which demonstrates that the water efficiency measures of the Code for Sustainable Homes level 4 will be achieved. The development shall be undertaken in accordance with the approved details.
9) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

10) No development shall take place until details of water hydrants have been submitted to and approved in writing by the local planning authority. The details shall include for the provision of the hydrants in relation to the occupation of the dwellings. The development shall be carried out in accordance with the approved details and thereafter retained.

11) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall include:
   i) Confirmation that run-off rates from the development site shall not exceed the proposed rates of run-off detailed within the submitted Flood Risk Assessment;
   ii) Drawings showing the locations and dimensions of all aspects of the proposed surface water management scheme;
   iii) Calculations to demonstrate that the detailed surface water management scheme has been adequately sized to accommodate the critical duration 1 in 100 year rainfall event (including an allowance for climate change);
   iv) Sufficient information to demonstrate that people and property will be kept safe from flooding, with consideration given to overland flow routing where required;
   v) Details of arrangements for the long term maintenance and management of the surface water management scheme.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed or in accordance with a timetable agreed in writing by the local planning authority.

12) No development shall take place until detailed plans of the roads, footways and foul water drainage have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details, in accordance with a timetable to be agreed by the local planning authority.

13) Before any dwelling is first occupied the roads and footways shall be constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with the details to be approved in writing by the local planning authority.

14) Notwithstanding the details indicated on the submitted drawings, no development shall take place until a detailed scheme for the off-site highway improvements as indicated in principle on Drawing No 1174/HWY/001-2 have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the off-site
highway works have been completed in accordance with the approved details, to the written satisfaction of the local planning authority.

15) The development hereby permitted shall be carried out in accordance with the approved plans listed in the plans schedule submitted as an agreed document at the Inquiry.