Appeal Decision

Inquiry held on 19 and 20 December 2013
Site visit made on 20 December 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/13/2201293
Garden Farm, Land south of Yarmouth Road and north of Lingwood Road, Blofield, Norfolk

- 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 Generator Group LLP against the decision of Broadland District Council.
- The application Ref 20121587, dated 31 October 2012, was refused by notice dated 24 April 2013.
- The development proposed is up to 75 residential units together with associated accesses, public open space and community facility.

Decision

1. The appeal is allowed and planning permission is granted for up to 75 residential units together with associated accesses, public open space and community facility at Garden Farm, Land south of Yarmouth Road and north of Lingwood Road, Blofield, Norfolk in accordance with the terms of the application, Ref 20121587, dated 31 October 2012, and the plans submitted with it, subject to the conditions set out in Schedule 1 of this decision.

Application for costs

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

Preliminary Matter

3. The appeal relates to an outline proposal with access to be determined at this stage; all other matters are reserved for subsequent approval.

Main Issues

4. The main issues in this appeal are as follows;
   - What is the extent of 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 4.4 years to 3.06 years and for the Broadlands part of the NPA from 1.87 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 find it significant that the Council’s closing submissions accepted 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 has accepted 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 43% increase if this appeal and that at Wyngates are 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, evidence indicates 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. It has been suggested 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 countered by the Council or others present at the Inquiry.

11. In relation to the views expressed by the Head-teacher of Blofield Primary School, if it was found that it was necessary for the school to expand then they could apply for funding from the CIL funds, to which the developer will contribute.

12. 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.

13. 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.

14. 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

15. 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.

16. 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.

17. 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 benefits of the scheme.

Planning Agreement

18. A completed Agreement was submitted at the Inquiry, which contains provisions for affordable housing and the provision and future maintenance of open space. I am satisfied that these provisions arise directly from the proposed development and relate to it in scale and kind. Therefore, the obligations contained therein are in accordance with Regulation 122 of the CIL Regulations.

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’. The standard time limits for the submission of reserved matters and the commencement of the development are included. Notwithstanding the description of the development it is necessary to specify, by condition, the maximum number of dwellings. In order that the development has a satisfactory access and is suitably served by roads, footpaths, fire hydrants and parking areas, a condition is necessary in order to agree the detail of such matters, including any associated drainage, and their timely implementation. I shall also include a condition which requires improvements to the neighbouring highway in order to preserve safety.

20. To ensure that the proposal has a satisfactory appearance and does not unacceptably affect neighbours a condition requiring the agreement of the levels of the building in relation to surrounding land is necessary. I shall also include a condition requiring an agreed form of tree protection during construction works in order that important trees are not affected. So that the development is of an appropriate standard in relation to sustainable construction and energy consumption, conditions are included to require at least 10% renewable or low carbon energy and that the dwellings achieve at least Level 4 of the Code for Sustainable Homes.
21. It is necessary to ensure that the proposed open space and play equipment is provided in an agreed form and at a suitable time; a condition to require this is included. In order to protect any archaeological remains that may exist, a condition requiring a programme of investigation is included. In order to protect any ecological interest on the site, the development should be implemented in accordance with the submitted ecological management plan. So that the proposal is not exposed to an unacceptable risk from flooding and does not increase the same risk to neighbouring land, the proposal should be implemented in accordance with the submitted Flood Risk Assessment. So that neighbours are not subjected to unacceptable disturbance during construction works I shall include a requirement for a Construction Method Statement.

Conclusions

22. For the reasons given above, it is concluded that the proposal would bring about significant benefits in the provision of new homes including affordable units; this is not outweighed by any adverse effects of the proposal. Therefore, the appeal is allowed.

S T Wood

INSPECTOR
APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

C Skinner Solicitor, Norfolk County Council
   He called
N Harris Area Planning Manager

FOR THE APPELLANT:

C Banner Of Counsel
   He called
D Churchill Iceni Projects

RULE 6 PARTY:

P Brady Norfolk Homes

INTERESTED PERSONS:

D Ward Blofield Parish Council
O Burwood Head teacher, Blofield Primary School
S Brocklebank Representing local residents

DOCUMENTS

1. Completed Planning Agreement
2. Signed Statement of Common Ground
3. Statement of D Ward
4. Statement of O Burwood
5. Statement of S Brocklebank
6. Copy of D Churchill’s Proof of Evidence at the Manor Park appeal
7. Settlement hierarchy plan
8. Appeal decision APP/V3120/A/13/2199216, Wantage.
9. Committee report relating to the 2012/13 AMR
SCHEDULE 1: Conditions

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

3) The details required by conditions 1 and 2 above shall not include provision for more than 75 dwellings.

4) No development shall take place until full details of all roads, footways, cycle-ways, fire hydrants, parking and turning areas and associated foul and surface water drainage details and visibility splays have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

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

6) Before any dwelling is first occupied the roads, footways and cycle-ways shall be constructed to binder course surfacing level between the dwelling and the adjoining County road(s).

7) The dwellings shall achieve Level 4 of the Code for Sustainable Homes in respect of water usage. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 in respect of water usage has been achieved. The relevant measures shall thereafter be retained.

8) 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 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.

9) No development shall take place until a scheme for highway improvements works on Yarmouth Road has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared in accordance with drawings 12-T036-13 and 12-T036-01D. The works shall be completed in accordance with the approved details before any dwellings are occupied.

10) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
i) the parking of vehicles of site operatives and visitors
ii) loading and unloading of plant and materials
iii) storage of plant and materials used in constructing the development
iv) wheel washing facilities
v) measures to control the emission of dust and dirt during construction.

11) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

12) No development shall take place until full details of the open space and play equipment, including a timetable for provision, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

13) No development shall take place until an Ecological Management Plan, including a timetable for provision, has been submitted to and approved in writing by the local planning authority. This shall be based on the Conclusions and Recommendations of the Extended Phase 1 Habitat Survey dated 30 October 2012. The Ecological Management Plan shall be carried out in accordance with the approved details.

14) No development shall take place until details showing how the existing trees and hedgerows that are to be retained will be protected during the course of construction has been submitted to and approved in writing by the local planning authority. The details shall accord with BS5837:2012. All the agreed protection measures shall be in place prior to the commencement of construction and shall be retained thereafter until construction has been completed.

15) In accordance with the submitted Flood Risk Assessment (prepared by Ardent Consulting, ref N750-02 Rev A dated October 2012) and the emails dated 4 and 6 December 2012 from Ardent Consulting to the Environment Agency, no development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
   i) Infiltration testing in the proposed location of the permeable paving, in accordance with BRE365;
   ii) Sizing of the permeable paving for the 1 in 100 year rainfall event including climate change, and if the half drain time is greater than 24 hours then the paving depth shall also include an appropriate freeboard to contain a subsequent 1 in 10 year rainfall event, and the paving shall be designed using the lowest infiltration rates nearby and appropriate factors of safety;
   iii) Calculations of green-field run-off rate using IH124 if the site cannot be drained using solely infiltration;
   iv) Provision of sufficient attenuation storage to allow restriction of run-off to the Highways Authority pipe network to equivalent green-field rates;
v) Details of the proposed location and sizing of the proposed attenuation storage features, designed to contain the 1 in 100 year rainfall event including climate change;

vi) 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.