



Appeal Decision

Inquiry held on 3 April 2013

Site visit made on 3 April 2013

by Ron Boyd BSc (Hons) MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 June 2013

Appeal Ref: APP/Z2830/A/12/2188768

Land off Stockwell Way, Milton Malsor, Northampton NN7 3AL

- 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 The Henry Charles Sargeant Will Trust against the decision of South Northamptonshire Council.
 - The application Ref S/2012/0948/MAO, dated 25 July 2012, was refused by notice dated 4 October 2012.
 - The development proposed is residential development, estate road and associated works.
 - The Inquiry sat for three days on 3, 4, 5 April 2013 and was closed by post 1 May 2013.
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Decision

1. I dismiss the appeal.

Procedural matters

2. The application was submitted in outline with all matters reserved other than access but the appellant has confirmed that permission is sought for 25 dwellings. Indicative drawings showing a possible layout with cross sections have been submitted. I have dealt with the appeal on that basis.
3. The fourth reason given by the Council for refusal of the application was the lack of provision for securing social infrastructure and community facilities the need for which would arise should the development proceed. At the Inquiry the appellant submitted a signed and dated Unilateral Undertaking under the provisions of Section 106 of the Town and Country Planning Act 1990 making provision for financial contributions in respect of such facilities and the provision of on-site affordable housing. An amendment was agreed at the Inquiry and, with my agreement, an updated document was submitted after the Inquiry. The Council confirmed the Undertaking satisfied its concerns and confirmed and that it would not pursue that reason for refusal. I am satisfied that the Undertaking meets the requirements of paragraph 122 (2) of the CIL regulations 2010 other than in respect of the offered lease of allotment land at section 6 (s). With that exception I have taken the Undertaking into account in my determination of the appeal.

Main issue

4. I consider the main issue to be whether the proposed development would be acceptable in this location having regard to the development plan, the National Planning Policy Framework (the Framework) and other material

considerations including the Council's housing land supply, access to the site, and whether the proposed number of dwellings could be satisfactorily accommodated within the appeal site.

Reasons

5. The appeal site comprises a broadly rectangular area of arable land amounting to some 0.93 hectares. Whilst immediately east of the settlement boundary defining the confine of Milton Malsor, it lies outside the boundary and is thus, for planning purposes, within the open countryside. The site's boundaries abut residential gardens to the west, the Northampton Loop railway line to the east, and similar agricultural land owned by the appellant to the north and south. Existing agricultural access to the site is from Stockwell Way roughly mid-way along the site's western boundary and this would be upgraded to provide vehicular access to the proposed 25 dwelling estate.
6. The Regional Strategy for the East Midlands including the East Midlands Regional Plan – the Regional Spatial Strategy (the RSS) was revoked on 12 April 2013. Examination in public of the West Northamptonshire Joint Core Strategy (the JCS) commenced on 16 April 2013. In view of its present stage of development the emerging JCS, and the proposed housing targets for South Northamptonshire contained within it as a replacement for those of the RSS, can only attract limited weight.
7. The development plan comprises the saved policies of the South Northamptonshire Local Plan Adopted October 1997 (the Local Plan). Saved Policy G2 of the Local Plan states that new development will be concentrated in Towcester, Brackley and closely related to the Northampton Borough boundary, with new development limited or restricted in the majority of villages and severely restrained in the open countryside. Policies H6 and EC2 effectively preclude development in the identified Restraint Villages and open countryside other than for stated exceptions, none of which apply to the proposed development.
8. In addition, to address an earlier lack of a five-year supply of housing land, the Council adopted an Interim Rural Housing Policy (IRHP) in 2009, allowing some residential development within the confines of villages which would otherwise be subject to the restriction policies referred to above. It was prepared in accordance with the procedures required for supplementary planning documents and was subject to six weeks of public consultation. The aim was to direct the additional development to those villages, identified through a points scoring methodology, as being the most sustainable within the District. These comprise three villages deemed capable of accommodating a 10% increase in dwellings designated 'most sustainable' and a further 13 considered to be 'reasonably sustainable' and appropriate for a 5% increase. The percentages are indicative and the IRHP has a degree of flexibility.

Supply of housing sites

9. Paragraph 49 of the Framework advises that if a local planning authority cannot demonstrate a five-year supply of deliverable housing sites the relevant policies for the supply of housing should not be considered up-to-date.

10. The RSS had required delivery of 8250 dwellings over the period 2001-2026 on the basis of 330 completions a year. Target total to April 2012 was 3630. The actual delivery was 3036 (Appendix 3 of the *South Northamptonshire Council Housing Study (April 2012) August 2012*). This represents a shortfall of 594. Delivery between 2005/06 to 2011/12 was between 206 and 304 completions a year, the latter being for 2011/12 and comprising entirely of windfall completions. Delivery over those 7 years has thus been consistently below target, averaging 239 completions a year or 72% of the RSS target.
11. Paragraph 47 of the Framework advises that where there has been a record of persistent under delivery the five-year target should be increased by the addition of a 20% buffer. I consider the above performance amounts to persistent under delivery and that the requirement for a 20% buffer applies.
12. Over the period 2001 to 2026 the housing projections contained in the emerging JCS aim to deliver a total of 8340 dwellings, not dissimilar to the 8250 of the RSS. The JCS proposes delivering the outstanding completions from April 2012 (including the backlog of 594) of 5304 (8340 less the 3036 delivered to April 2012) over the 14-year period 2012 to 2026. The delivery trajectory proposes 1588 completions over the five-year period 2012-2017. With the 20% buffer this amounts to a five-year target of 1906 completions. The Council contends that it has a deliverable supply of land sufficient for 2266 completions equating to a 5.95 year supply.
13. However, there are a number of significant sites included in the Council's assessment for which applications have either yet to be determined, are subject to completion of S106 Agreements or have yet to materialise. These include development proposals for Towcester South (Bloor and Persimmon Homes); Radstone Fields, Brackley; Turweston Road South, Brackley; Moat Lane/ Springfields/Green Lane, Towcester; Burcote Road, Towcester; and the Pianoforte and Chaplins Yard sites at Roade. Completions assumed by the Council for the above sites by 2017 amount to 875.
14. The Framework advises that sites with planning permission should generally be considered deliverable until permission expires. The Framework does not preclude sites without planning permission from being considered deliverable subject to there being a realistic prospect that housing will be delivered within five years. This enables a realistic allowance to be made for windfall sites, as the Council has done (225 completions to 2017) and permissions anticipated in accordance with the IRHP (118).
15. However, for larger and more complex development proposals, particularly where significant Section 106 Agreements are involved, there is less likelihood of there being sufficient certainty of programme to warrant their designation as deliverable until planning permission, following completion of any required Agreements, has been granted. The evidence before me indicates that the specific sites mentioned above should be considered to be in this category.
16. Exclusion of those sites would reduce the projected deliverable completions over the five-year period 2012-2017 to 1391, a shortfall of 515 compared with the target of 1906 and equivalent to a 3.65 year supply. A more optimistic assumption of their delivering 50% of the Council's assessment would still only amount to a 4.8 year supply. There has, as yet, been no conclusion to the testing of the JCS figures and delivery trajectory through the examination process. An assessment on the basis of the RSS trajectory and

target of 8250 completions, which, notwithstanding the revocation of the RSS, remain the only housing figures which have been through the scrutiny of the examination process, would indicate a greater five-year shortfall. Assuming recovery of the April 2012 backlog of 594 dwellings over five rather than fourteen years would further exacerbate the deficit.

17. In view of the magnitude of the consequent shortfall in deliverable sites which would result from excluding the above larger sites yet to obtain planning permission, I consider it reasonable to conclude that the Council has not demonstrated a deliverable five-year supply of housing sites. Accordingly paragraph 49 of the Framework is relevant.
18. The Council's housing supply policy can thus not be considered up-to-date in that it is failing to deliver the housing sites required. However, the underlying aim of the above mentioned Local Plan policies and the IRHP remains relevant. Directing development to the most sustainable areas, having regard to the different roles and character of different areas and recognising the intrinsic character and beauty of the countryside, is consistent with advice in the Framework and its overall thrust of sustainable development.
19. Milton Malsor is a small village and, as Inspectors conducting appeals into the previous proposals for the site (Appeals APP/Z2830/A/09/2114196 and APP/Z2830/A/10/2133130) have identified, has limited facilities. Under the IRHP scoring it is neither one of the 3 'most sustainable' nor one of the 13 'reasonably sustainable' villages and is ranked 30th out of the 79 assessed. I consider the IRHP's assessment of villages to be a reasonable and practical means of indicating relative sustainability and, as previous Inspectors have done, I give it weight as a material consideration.
20. My site visit confirmed that the very limited stock of the village shop comprised solely of non-food items. Also that the village has no pre-school. Bus stops are within reasonable distance of the site and there is a roughly half-hourly service for journeys into either Northampton or Towcester, both generally taking a little over 20 minutes – an improvement over the hourly service in place at the time of the previous appeals. Other facilities are as set out in the Village Sustainability Matrix appended to the IRHP. I drove along the routes that cyclists would have to take from the site to the employment sites at Swan Valley and Brackmills and to Northampton town centre. These comprise a mix of cycle lanes, cycle paths, and the all-traffic road network and vary between just under 4 and 5.5 miles or so. Whilst such journeys would clearly be possible by bike I consider the appeal of the routes for day to day cycle commuter use would be limited.
21. Notwithstanding the relatively frequent bus service, I consider that future residents of the proposed development would be likely to rely predominately on the use of a car in connection with their everyday activities. Overall, I conclude that Milton Malsor, consistent with the village's placing within the IRHP hierarchy, and as a location for the proposed development, is limited in terms of sustainability.

Access to the site

22. The site would be approached either from the High Street to the west, via Stockwell Road, or from Collingtree Road to the south, via Church Close and Stockwell Way. These are relatively narrow sinuously aligned residential

estate roads. From their junction Stockwell Way continues northwards for a short distance past Raynsford House to terminate in an oval-shaped cul-de-sac, fronted by seven pairs of semi-detached sheltered-housing bungalows looking across the road into a small central green. The access into the site would run eastwards from the north-east corner of the cul-de-sac and comprise an initial short stub of around 10m of existing public highway and then a length of private access owned by the appellant. This runs between a pair of private semi-detached houses to the north, Nos. 35 and 37 Stockwell Way, and the side garden to one of the bungalows, No. 24.

23. Around the oval the carriageway width of Stockwell Way varies between 4.06m, at its northern and southern ends, to 4.24m along the eastern side, the more direct route in to the proposed estate. The existing public highway element of the access into the proposed estate has a carriageway width of 4.32m. The length of Stockwell Way across the frontage of Raynsford House, between the oval and the junction with Stockwell Road, has a carriageway width of 4.3m. Whilst Fig. 7.1 of Manual for Streets (MfS) indicates that the 4.24m width would enable two typical cars to pass each other it would not accommodate a typical car and a mini bus sized vehicle or a car and a large delivery or service vehicle.
24. The present layout of the carriageway in the cul-de-sac manages to cope with present traffic demands which are very low. The bungalows themselves have no parking provision within their curtilages but there is a degree of private parking adjacent to the highway. Car ownership amongst the elderly sheltered-housing residents is limited and at an early morning site visit I observed only four cars in these spaces. Other traffic in the cul-de-sac is likely to be sparse such as visitors to occupants and general service vehicles such as the fish and chip van which I witnessed is well patronised by residents. Accommodation of present day refuse collection vehicles has been achieved by local hardening beyond the kerb-line on the inside of the bends of the oval to avoid over-running of the footway.
25. The Highway Authority's (HA) assessment, which I have no reason to doubt, estimates the proposed 25 dwellings would generate some 136 car journeys a day. The HA's present absolute minimum adoption standards for such a situation would require a carriageway width of 4.8m which, MfS indicates would just enable a typical large service vehicle and car to pass. In support of its objection to the proposed access arrangement for the development the HA stated that the highway in its existing configuration is barely operational for the current situation.
26. I consider this to be a reasonable analysis and that the present layout would be unsuitable for accommodating the intensification of traffic which would result from it being used as a through route to the proposed estate. There would be a strong likelihood of conflict between opposing vehicles, exacerbated by the limited intervisibility between vehicles emerging from the proposed estate by the boundary fencing to No. 24 and those entering the cul-de-sac by Raynsford House. This, and any consequent reversing manoeuvres in an area with a preponderance of elderly residents, would pose a risk to highway safety.
27. The private access between Nos.37 and 24, to be upgraded to provide the entrance to the estate, is insufficient to accommodate the HA's requirements for an adoptable highway of a 4.8m carriageway, 1.8m footway and a 1m

wide service strip, an overall width of 7.6m. The appellant has control of only a 7.26m width, a shortfall of 0.34m. Overcoming this would require acquiring additional land or reducing the width of the footway. In the event of the latter solution the appellant has suggested upgrading the public footpath which runs eastwards from Raynsford House across the appellant's land just south of the appeal site and linking it into the site. This could be secured by means of an appropriate Grampian condition (as indeed could widening the private access itself). Were I to have found the proposal otherwise acceptable I would have considered the imposition of such a condition.

28. In addition to highway safety aspects of the existing local road's unsuitability for accommodating traffic generated by the proposed 25 houses, the use of the cul-de-sac as access to the proposed estate would significantly change the present nature of the immediate area. At present, being located against the settlement boundary of the village, there is effectively no through traffic and the cul-de-sac has a quiet, private and self-contained character appropriate for the sheltered housing within it. Raynsford House is the community centre for the residents of both the cul-de-sac and other sheltered housing in the immediate vicinity and the present relatively traffic-free environment enhances its availability for the residents who access it on foot, mobility scooter or wheelchair.
29. I consider the additional traffic which would result from the proposed development, and which would have no connection with the sheltered housing, would be at odds with the pace of life within the cul-de-sac. It would be to the detriment of the present character of the area and the living conditions of residents. The effect of the proposed development would thus be contrary to the principle, set out in the Framework, that planning should enhance and improve the places in which people live their lives, and the advice that development should add to the overall quality of the area and respond to local character.
30. In the light of the above I conclude that the proposed development would not provide satisfactory access arrangements and as such would be detrimental to highway safety, the character of the cul-de-sac area and the living conditions of local residents. It would be contrary to Local Plan Saved Policy G3 (B) and advice in the Framework.

The indicative layout.

31. The layout of the site is a reserved matter. The Design and Access Statement refers to the Site Development Layout Plan accompanying the application (Dwg No. LA 09-MM-01 Rev D) as showing the manner in which it is intended to develop the site. However, the appellant's Proof of Evidence makes it clear that the plan shows one way in which the site could be developed. As mentioned above I have considered the appeal on the basis of the submitted layout and cross sections as being indicative. However, the plan incorrectly indicates the development extending beyond the site boundaries. Notwithstanding the error I am satisfied that a layout wholly within the site boundaries, which would equate to a density of 27 dwellings per hectare, could be achieved for consideration at reserved matters stage were I to have found the proposal otherwise acceptable.

Other matters

32. The appeal site lies within the Important Local Gap between Milton Malsor and the Northampton Borough Boundary identified in Local Plan Saved Policy EV8 as contributing to preventing coalescence between the village and Northampton. This is referred to in the Council's first reason for refusal of the application. However, whilst the proposed development would represent an incremental erosion of the undeveloped land between the village and Northampton the railway line would be a defensible boundary to development. The Policy states that development which would significantly intrude into Important Local Gaps will not be permitted. The Officer's report considers the proposal would not significantly intrude into the gap and I agree. The location of the proposal in this respect would not justify dismissal of the appeal.
33. The reasons for the previous refusals and appeal dismissals referred to above did not include access issues. However, from the HA's evidence and submitted documents 6 and 6a it is clear that the HA had expressed some concern in respect of both previous applications although in neither case were these taken forward as objections by the Council. I note the comments of the HA in their letter of 1 September 2009. These include the suggestion that lower vehicle speeds in the area of Raynsford House would be advantageous for residents and that the current situation on Stockwell Way could not be considered a cause of highway safety issues. I do not accept this as justification for routing the access to the proposed estate through the cul-de-sac. I have determined this appeal in the light of the current evidence presented to me and my inspection of the site.

Conclusion

34. The proposed development would help to address the present shortfall in housing in the District and the proposed affordable housing element would contribute to the acknowledged need for such housing in the village. However, the appeal site lies in an area of limited sustainability and as such the proposed development attracts little weight in its favour from the Framework's presumption in favour of sustainable development.
35. There would, though, be significant adverse effects from the proposal in terms of detriment to highway safety and harm to the character of the area through which access to the site is proposed, and to the living conditions of the residents of that area. Mindful of my finding that the Council's housing supply policy can not be considered as being up-to-date to the extent I have indicated above I have carefully considered the weight that should be attached to these adverse effects in the light of the Framework along with all the other matters raised in the evidence. I conclude that the adverse effects significantly and demonstrably outweigh the benefits of the proposal and that there are no material considerations sufficient to make the proposed development acceptable. Accordingly, I conclude that the appeal should fail.

R.T.Boyd

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Caroline Bolton	Of Counsel instructed by South Northamptonshire Council
She called	Mr Andrew D'Arcy BA (Hons), MRTPI
	Ms Carla Boswell BSc (Hons)
	Mr Daniel Callis MSc, BSc, MRTPI

FOR THE APPELLANT:

Mr Peter Taylor	Solicitor, DLA Piper UK LLP
He called	Mr Laurence Wilbraham Dip TP, MRTPI

INTERESTED PERSONS:

Cllr Ann Addison	SNC Ward Councillor
Mrs Brenda Jenks	Chairman Milton Malsor Parish Council
Mrs Janet Winchester	Local resident
Mr Christopher Mair	Local resident

DOCUMENTS

- 1 Vehicle tracking diagram – Dwg No S1472/12/003
- 2 East Midlands Regional Plan March 2009
- 3 West Northamptonshire Joint Core Strategy – submission draft
- 4 Statement of Common Ground
- 5 S 106 Undertaking dated 20 March 2013 -
- 6 Form C.R.2 dated 05/08/2009
- 6a Form C.R.2 dated 28/09/2009
- 7 South Northamptonshire Local Plan and Proposals Map with inset 66
- 8 Milton Malsor Design Statement
- 9 Objections to pre-submission JCS re Policy S3 wrt South Northamptonshire
- 10 Statement of Mr Christopher Mair
- 11 Statement of Cllr Ann Addison
- 12 Statement of Mrs Brenda Jenks
- 13 Milton Malsor Neighbourhood Plan – Second Consultation
- 14 Appeals APP/Z2830/A/112159377 and 2169384 - Submission by Mr Dineen
- 15 Traffic generation predictions for 25 residential dwellings
- 16 Land transfer registration
- 17 Revised housing land supply - Tables A-D for various scenarios
- 18 Correspondence re Application S/2012/0382/MAO (former Pianoforte site)
- 19 Localism Act 2012 – Extract
- 20 Planning and Compulsory Purchase Act 2004 - Extract
- 21 Amended Table 5 of Mr D'Arcy's proof
- 22 Chief Planning Officer's letter of 6 July 2010
- 23 Cycle routes to employment sites and central Northampton
- 24 Alternative to suggested condition 14
- 25 Details re village shop and alleged pre-school
- 26 Final S106 Unilateral Undertaking – submitted by e-mail
- 27 Closing Submission – Council – submitted 15 April 2013
- 28 Closing Submission – Appellant – submitted 16 April 2013