
Appeal Decision

Inquiry held on 3-6 June and 14 July 2014

Site visit made on 6 June 2014

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 29 September 2014

Appeal Ref: APP/G2815/A/13/2209113

Land between St Christopher's Drive and A605 Oundle Bypass, Oundle, Northamptonshire.

- 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 Persimmon Homes East Midlands against the decision of East Northants District Council.
 - The application Ref 13/01245/OUT, dated 18 July 2013, was refused by notice dated 17 October 2013.
 - The development proposed is residential development of up to 95 houses.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application was for outline planning permission only, with details of appearance, scale, landscaping, layout and access reserved for future consideration. I have determined the appeal on the same basis.
3. The proposal was described on the application form as "residential development", and amended on the Council's refusal notice to "residential development of up to 95 houses". The appellant having confirmed at the inquiry that it was happy with the Council's more informative description, I have adopted that for the purposes of this appeal.
4. At the inquiry an application for costs was made by the Council against the appellant. That application is the subject of a separate Decision Letter of even date.
5. Two adjournments were required in the course of the inquiry. The first, which occurred shortly after I opened the inquiry on 3 June, I considered necessary in order to allow the Council a fair opportunity to consider the "additional statement" submitted by the appellant at 17:54 on 29 May. I address this matter further in my decision on the costs application. The second was needed to accommodate my preference for hearing closing submissions delivered orally, rather than receiving them in writing.
6. The appellant provided an executed S.106 Undertaking, the contents of which were discussed at the inquiry.

Main issue

7. The main issue is whether or not the Council is able to demonstrate a five year supply of deliverable housing sites, and the implications of that in terms of national and local planning policy.

Reasons

8. The reason why the five-year supply of housing is central to this appeal is that it determines the approach that must be taken to Development Plan policies relevant to the supply of housing. Paragraph 49 of the government's National Planning Policy Framework (NPPF) explains 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. This in turn has implications for how development proposals should be determined, because paragraph 14 of the NPPF states that where relevant policies are out of date, planning permission should be granted unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits.
9. In order to establish whether a five-year supply of housing can be demonstrated here, it is necessary to consider firstly the extent of the housing requirement, and then to look at whether sufficient deliverable housing sites are available to meet that requirement.

Housing requirement

(i) Background

10. Paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed housing needs for market and affordable housing in the housing market area ("the HMA"). For present purposes, the HMA comprises the boroughs and districts of East Northamptonshire, Corby, Kettering and Wellingborough. The North Northamptonshire Joint Planning Unit ("the JPU") is responsible for strategic planning for the HMA as a whole.
11. The Core Spatial Strategy (CSS) prepared by the JPU and adopted in 2008 sets out the housing requirements for the HMA for the period 2001 to 2021. However, the CSS was informed by the East Midlands Regional Plan and the Milton Keynes and South Midlands Sub-Regional Strategy (both now revoked), which in turn reflected the (then) government's Sustainable Communities Plan, and identified North Northamptonshire as part of a nationally important Growth Area intended to help accommodate development pressures arising in the South-East of England.
12. The 2008 CSS housing requirement figures were, then, the result of a specific policy decision to focus growth on North Northamptonshire, and were "well in excess of those which might otherwise be derived from either the 2003 or 2004 household projections"¹. There is no dispute that while these figures were subject to public examination and remain part of the adopted Development Plan, they are considerably out of date and cannot reasonably be considered an objective assessment of the area's housing need.

¹ East Midlands Regional Plan Panel Report (2007)

13. The JPU is in the process of preparing a replacement Joint Core Strategy (JCS), which will specify the amount of housing required to meet the needs of the HMA for the period 2011-2031. However, this emerging Local Plan is still at a fairly early stage, and will not be submitted for examination before January 2015. In the meantime, the JPU has prepared an "Interim Housing Statement" (IHS), which is intended to provide decision makers with up-to-date evidence on the objectively assessed need for housing in the HMA.

(ii) Objectively assessed need

14. The first draft of the IHS was informed by the Interim 2011 based CLG household projections, and was subject to 8 weeks of public consultation. As a result of representations received, the JPU carried out further assessment of economic and affordability evidence for housing requirements, consulted further with adjoining authorities, and commissioned Cambridge University's Centre for Housing and Planning Research (CCHPR) to advise on the demographic evidence for housing requirements. The final version of the IHS (dated January 2014) identifies the HMA's objectively assessed housing need for the period 2011-2021 as 18,300, as advised by the report of the CCHPR. The IHS also identifies individual housing requirement figures for each of the 4 authorities within the HMA, which the JPU has derived by distributing the overall HMA requirement to reflect the apportionment made by the 2008 CSS.

15. The proofs of evidence prepared by the appellant for the inquiry contained an extensive critique of the evidence base which informed the IHS, but did not suggest any alternative housing requirement figure. At the inquiry, the appellant agreed that the work of the CCHPR was sound, and explained that it was prepared to accept the underlying figures in the CCHPR report: what it could not accept was the JPU's policy-based redistribution of those figures. I shall therefore deal briefly with concerns about the IHS evidence base, before looking at the reasons for the JPU's approach to distribution.

16. The evidence informing the IHS includes a range of economic forecasts, trend-based projections and employment datasets. These have been carefully reviewed, and various employment scenarios modelled. There seems to me to have been an appropriate analysis of the relevant information, and I do not share the appellant's concern that insufficient consideration has been given to the link between jobs and housing.

17. Similarly, while it is fair to note that the IHS does not present a detailed assessment of the entire set of 'market signals' listed in the government's Planning Practice Guidance (PPG), it is reasonably clear that the PPG's list is not intended to be either prescriptive or exhaustive. Rather, it identifies some market signals which may be relevant to an assessment of need, and suggests how they might be taken into account. The IHS was informed by consideration of market signals that were considered relevant (such as local house prices, affordability and build out rates); those not considered particularly relevant (such as rental prices, given the limited size of the rental sector in the HMA) were not addressed. That seems to me to be a proportionate approach.

18. The IHS contains no separately identified figures for existing unmet need, or the objectively assessed need for affordable housing. The first draft of the IHS took the approach of adding an allowance, for those whose housing needs were unmet in 2011, to an estimate of the housing need for the additional households that would be formed between 2011 and 2021. However, the

advice of the CCHPR was that because household projections do not reflect unmet housing need, and because household formation rates have been depressed by the recession, the CLG 2011 based projections were likely to underestimate the future demand for housing. It therefore advised an upward adjustment of the housing need assessment, based on a "2008 tracking" projection, which assumes that from 2015 household formation rates will move back towards previous trends, and that from 2025 they will track those in the previous CLG 2008 based projections rather than the CLG 2011 based projections. Assuming a 3% vacancy rate, this resulted in a requirement for 18,300 additional dwellings for the period 2011-2021, as set out in the final version of the IHS.

19. The CCHPR's advice, and the Council's case, is that these additional dwellings will allow household formation rates to move back toward the previous trend, rather than continue to fall, and in doing so will provide scope for unmet housing need to be addressed; to make a separate allowance for unmet housing need at 2011 would, therefore, result in 'double counting'. As to the need for affordable housing, the main author of the CCHPR report's evidence to the inquiry was that his analysis looked at the totality of households likely to form in an area. He explained that since this included every type of housing – affordable as well as open-market – there was no separate figure for affordable housing: decisions about the proportion of the total housing figure that should in future be made available for affordable housing would need to be considered, as a separate exercise, by the JPU.
20. These approaches to unmet need and affordable housing seem to me to be reasonable. The conclusion that unmet need will be met through an uplift to the housing requirement might fairly be described as reliant more upon judgment than evidence, but it seems to me that alternative methods are not without similar problems. For example, the shortfall between the number of dwellings delivered and the existing Development Plan housing requirement might be calculated, and that figure added to projections of future need, but the existing Development Plan housing requirement figure is itself only a judgment-based projection that is now agreed to be out of date.
21. The failure to identify the extent of the need for affordable housing is unhelpful, given that the stated intention of the IHS is to "...set[s] out the Joint Committees preferred approach to meeting housing requirements in the North Northamptonshire HMA pending the submission of the new Joint Core Strategy". But it is not an omission which undermines the validity of the assessment of the total overall housing requirement for the HMA. The Council has indicated that further work will be carried out, such as producing an up-to-date SHMA to inform the emerging JCS, which will enable the sub-division of the overall figure into the different types of housing required.
22. Whether or not the approaches taken by the IHS to establishing the HMA's objectively assessed housing need are preferable to other alternative approaches is debatable. But that does not undermine their credibility, or that of the IHS as a whole. As the PPG explicitly recognises, establishing future needs for housing is not an exact science, and no single approach will provide a definitive answer. The aim of the IHS is not to introduce a new plan or policy, but rather to provide an up-to-date and objective assessment of the HMA's housing need, pending the emergence of the JCS. On the basis of the evidence available to me, I am satisfied that it has succeeded in that aim.

(iii) Apportionment

23. The next matter to consider is the JPU's apportionment of the overall housing requirement for the HMA between its four constituent areas. Rather than use the figures for each area set out in the CCHPR report, the JPU decided to distribute the total housing requirement in accordance with the proportions used in the 2008 CSS.
24. The appellant contends that since the 2008 CSS housing requirement figure derived from the now-revoked Regional Plan is agreed to be out of date, so too should be the 2008 CSS "spatial vision" for the distribution of housing, which was derived from the same source. However, as the appellant fairly recognises, an alteration in planning policy can only take place within the Development Plan context. Arguments concerning the formulation of a new spatial vision for the HMA, and the policies appropriate for its implementation, should be undertaken in the context of the emerging JCS. Differing cases as to the areas of the HMA to which growth should be directed, and the areas where it should be constrained (for example, the JPU's proposed reduction in the share of housing to be provided by Wellingborough), will no doubt be scrutinised as part of the Examination in Public.
25. In the meantime, the approach adopted by the JPU reflects the fact that the IHS does not seek to effect any policy change, but simply to review the housing requirement figure at HMA level. In his evidence to the Inquiry, the Head of the JPU described the effect of distributing the HMA's housing requirement by reference to the CSS apportionment as delivering the same plan, but by 2031 rather than by 2021.
26. I do not share the appellant's concern that the approach taken by the JPU conflicts with the judgment in *Hunston*². In that case, an Inspector had noted that there was no definitive housing delivery requirement in any relevant plan, and that the CLG 2008 based projections provided the most up to date figures. However, she regarded such figures as failing to take account of the constraints on development (namely the Green Belt) within the district, and concluded that for the purposes of assessing whether a five year supply of housing could be demonstrated, the housing requirement should be reduced to reflect this constraint. The Court of Appeal held that the Inspector was wrong to use a quantified figure which departed from the approach in the NPPF, especially paragraph 47. That paragraph requires local planning authorities to use their evidence base to meet the "full, objectively assessed needs for market and affordable housing *in the housing market area*" [my emphasis].
27. Here, the full housing needs of the North Northamptonshire Housing Market Area have been objectively assessed, and no deductions have been made. The IHS identifies the objectively assessed need as 18,300 dwellings, which is the figure advised by the CCHPR report, and accepted by the appellant. The JPU did not reduce that total, but simply apportioned it to different parts of the HMA in accordance with the "Development Distribution" policies of the extant Development Plan. The appellant has not sought to argue that those policies are inconsistent with the policies of the NPPF, or "out-of-date" for the purposes of paragraph 14 of the NPPF.

² *City and District Council of St Albans v (1) Hunston Properties Ltd and (2) Secretary of State for Communities and Local Government* [2013] EWCA Civ 1610

28. The fact that policy-based apportionment has resulted in housing requirement figures for East Northants and Kettering that are lower than the district-level figures contained in the CCHPR report cannot be read as a straightforward indication of undue constraint in those two areas, any more than the higher figures obtained for Wellingborough and Corby can be read as a straightforward incitement to excessive expansion in those areas. Rather, these figures reflect the still extant policies of the adopted CSS which, as discussed above, remain to be reviewed within the context of the proposed replacement JCS.
29. I conclude that apportioning the objectively assessed housing need for the HMA between its constituent authorities, in accordance with the distribution policies of the extant Development Plan, is a reasonable approach.

Housing supply

30. For the purposes of the inquiry, the Council undertook a review of the Housing Site Schedule set out in its 2013 Annual Monitoring Report (AMR), in order to establish the extent of its supply of specific deliverable sites. After making deductions to reflect changes in the circumstances of existing sites, and additions to reflect previously unidentified sites that had come forward since the 2013 AMR, it arrived at a figure of 3,685 dwellings.
31. Despite its misgivings about whether any housing could be delivered within the next 5 years on the Whitworths site at Irthlingborough, the appellant accepted this figure. It is the figure I shall use for the purposes of assessing whether or not the Council can demonstrate a five year supply of housing.

Conclusions concerning 5 year supply

32. The IHS is not without its faults; I have already noted its failure to identify the proportion of affordable housing need, for example. Another, which became apparent at the inquiry, was the approach taken to delivery of the 175 dwellings which, on the Council's evidence, ought to have been provided between 2011 and 2014, but were not. The IHS adopts the "Liverpool" approach to this shortfall (spreading delivery across all the remaining years of the plan period) rather than the "Sedgefield" approach (requiring delivery within the next 5 years).
33. My view, and that of the Inspector who considered the IHS in the context of the recent inquiry at Broughton³, is that the Sedgefield approach accords more closely with the NPPF's requirement to "boost significantly" the supply of housing. This also appears to be the approach preferred by the PPG, which advises that "local planning authorities should aim to deal with under-supply within the first 5 years of the plan period where appropriate". The Council's planning witness accepted at the inquiry that the Sedgefield method would be appropriate here, and it is a straightforward enough matter to adjust the calculations accordingly.
34. Notwithstanding these reservations, I agree with the Broughton Inspector's conclusion that the IHS can be regarded as a cogent, robust and up-to-date evidence base. It has not been subject to the extensive consultation and rigorous Examination in Public that would be required of a Development Plan Document, and the fact that it has not been tested, or moderated against relevant constraints, limits the weight that can be attached to it. It does

³ Appeal ref: APP/L2820/A/13/2204628, decision dated 10 April 2014

however constitute more recent and convincing evidence of the objectively assessed housing need for the area than the out-of-date housing requirement figures contained in the 2008 CSS, and I shall therefore use it as the basis for my assessment of the Council's five-year housing requirement.

35. The IHS indicates that the Council's housing requirement for 2011-2021 is 3,300, from which the five-year requirement can be calculated as 1,650. Applying the 5% buffer required by paragraph 47 of the NPPF ("to ensure choice and competition in the market for land") gives a total of 1,733, and adding in the backlog of 175, as discussed above, brings this to 1,908 dwellings. The Council's supply of 3,685 deliverable dwelling sites is sufficient to meet this requirement.

Other matters

36. I have referred above to the requirement, set out in paragraph 47 of the NPPF, to provide an additional buffer of 5%. That paragraph goes on to say that where there has been "a record of persistent under delivery of housing", local planning authorities should increase the buffer to 20%. I am grateful to both parties' advocates for providing me with detailed submissions as to whether, in this particular case, a 5% or a 20% buffer should be applied. It is tempting to take the opportunity to set forth my own views on the matter, but since the effect of increasing the buffer from 5% to 20% would make no difference to this local planning authority's clear ability to demonstrate a 5 year supply of housing, it is not a matter that is relevant to my determination of the appeal.
37. The appellant, through the medium of Mr Pollard's Additional Statement, raised a number of points concerning the operation of housing market geographies in East and North Northamptonshire. I have neither the remit nor the evidence, in the context of this S.78 appeal, to analyse whether or not the existing HMA boundaries remain fit for purpose. That is one of the many matters which will need to be tested at the examination of the emerging JCS. In the meantime, for the purposes of the IHS, I am satisfied that the JPU's decision to use the existing HMA was reasonable.
38. I heard evidence from Oundle Town Council that it is currently engaged in the preparation of a Neighbourhood Plan, which will identify sites for development from 2021 onward. Those involved have clearly put in a lot of work already, which is to be commended, and which will no doubt bear fruit when the referendum is held in 2015. However, since the Neighbourhood Plan is still in its early stages, with no draft yet published for consultation, it is a consideration to which I can afford little weight in the context of this appeal.

Overall conclusions

39. I have found that the Council is able to demonstrate a 5 year supply of deliverable housing sites. Consequently, relevant policies for the supply of housing do not need to be treated as out-of-date by operation of paragraph 49 of the NPPF.
40. The relevant Development Plan policies in this case are Policies 1 and 2 of the Rural North, Oundle and Thrapston Plan (adopted 2011), which restrict new housing development to sites within the identified Settlement Boundaries of the district's towns and villages. The proposed development would conflict with

these policies, because the appeal site lies outside the Oundle Settlement Boundary.

41. I have not found any other material considerations of sufficient cumulative weight to overcome this conflict with Development Plan policies. The appellant has rightly pointed out that there is an acute and continuing shortfall in the nationwide provision of housing, and that the NPPF contains a presumption in favour of sustainable development. However, paragraph 14 of the NPPF provides guidance on how the presumption in favour of sustainable development should apply to decision-taking, and only advises departure from determining proposals in accordance with adopted policies in situations where the Development Plan is absent, silent, or relevant policies are out of date. That is not the case here. In any event, I am not convinced that building housing on a previously undeveloped greenfield site, outside any settlement boundary, in circumstances where the Council can demonstrate a supply of housing land sufficient to meet its needs for the next 5 years, could reasonably be described as "sustainable development".
42. The S.106 Undertaking contains provision for 40% of the dwellings to be secured as affordable housing, and for the payment of a number of contributions toward local services and infrastructure, in the event that planning permission were granted. Since I have found the proposed development unacceptable for other reasons, it is unnecessary to consider these further: at best, they would simply enable compliance with certain Development Plan policies, or provide mitigation for an otherwise unacceptable impact of the proposed development, and would not add any further weight in favour of permitting planning permission.

Determination

43. I conclude that the appeal should be dismissed.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss S Clover, of Counsel

Instructed by Mr Q Baker, Director
of Legal Services for the Council

She called -

Mr M Burton BA(Hons) DipUP Msc MRTPI

Mr N McDonald

Mr A Longley BSc(Hons) MA MRTPI

Senior Planning Policy Officer

Visiting Fellow at CCHPR

Head of North Northants JPU

FOR THE APPELLANT:

Mr P Goatley, of Counsel

Instructed by Mr M Bagshaw

He called -

Mr A Pollard BA(Hons) DTPL MRTPI

Mr M Bagshaw BA(Hons) BTP MRTPI

Director, Turley Associates

Consultant, John Martin Associates

INTERESTED PERSONS:

Cllr P Stearn

Mr J Packman, on behalf of the Richardson Family

Cllr D Chapple

Mr J Flory

Oundle Ward Member

Pro Vision Planning & Design

Oundle Town Council

Oundle Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1	List of appearances on behalf of the appellant
2	Copies of correspondence between the Council and the appellant (21 May 2014 – 30 May 2014), submitted by the Council
3	Copy of Mr Packman's statement on behalf of the Richardson Family
4	Draft Unilateral Planning Obligation, submitted by the appellant
5	Mr McDonald's Note on the Implications for East Northamptonshire of the new ONS Population Projections published on 29 May 2014
6	Additional Appendices 9, 10 and 11 to Mr Longley's Rebuttal Proof
7	Opening Submissions on behalf of the appellant
8	Opening submissions on behalf of the Council
9	Copies of the Topographical Survey at original scale
10	Draft list of suggested conditions
11	Table and charts comparing cumulative housing completions with CSS housing requirements, provided by the Council
12	The Council's re-calculation of Appendix 21A to Mr Bagshaw's proof
13	List of suggested conditions
14	S.106 Undertaking dated 2 June 2014, given by the appellant
15	The Council's Supplementary Planning Document "Developer Contributions"
16	Costs application on behalf of the Council
17	Replacement S.106 Undertaking dated 11 July 2014, given by the appellant
18	Closing submissions on behalf of the Council
19	Closing submissions on behalf of the appellant
20	The appellant's response to the Council's application for an award of costs