



Town & Country Planning Act 1990 (As amended)

Appeal by
Wulff Asset Management Limited

Against the refusal of Outline Application for up to 196 dwellings with all matters reserved other than the means of access.

At
Land North West Of 1 To 12 Twelve Houses, Sowbrook Lane, Stanton By Dale,
Derbyshire DE7 4QX.

SUMMARY OF PROOF OF EVIDENCE (1)

OF

JAMES GRUNDY

MLPM, LRTPI

PINS Appeal Ref: APP/N1025/W/23/3319160
Council Ref: ERE/0722/0038

1 Sustainability matters

This proof relates to the first reason for refusal, the sustainability of the location. Consideration is split into two facets: firstly to the location being unsustainable in terms of development plan policy and settlement morphology; secondly to connectivity of, and accessibility of, services and facilities.

2 Locational unsustainability

- 2.1 The Ilkeston Urban Area (IUA) is the closest to the appeal site of the areas identified in the Core Strategy as being where new housing should be located. The Core Strategy defines the Ilkeston Urban Area as comprising the settlements of Ilkeston and Kirk Hallam.
- 2.2 The appeal site is not within or adjoining the settlements of Ilkeston or Kirk Hallam and therefore the site is not within or adjoining the IUA.
- 2.3 In terms of the adopted Core Strategy, and as a matter of physical reality on the ground, the appeal site is not part of a settlement, it is not connected to a settlement, and it is not adjacent to the Ilkeston settlement.
- 2.4 If the Strategic Housing Allocations in the emerging Core Strategy become adopted policy and are developed, the appeal site would remain detached from them.

3 The proposal

- 3.1 The proposal is not compliant with either the adopted or emerging Core Strategies, as it seeks to site housing in a location which is not within an area identified for the accommodation of growth.
- 3.2 The proposed development would be isolated. It would not form part of a settlement, would not be part of an existing neighbourhood, or adjoin an existing neighbourhood. The residents of the appeal site would not become part of an existing community.

4 Connectivity

- 4.1 No services are proposed at the site, necessitating the need to travel for all facilities. The appeal site lies some distance from Ilkeston town centre and from the local centre at Kirk Hallam.

Towards Kirk Hallam

- 4.2 The physical characteristics of the highway along Sowbrook Lane and the environs do not represent a pleasant or appealing route for commuting along by foot or bicycle. Sowbrook Lane between the appeal site and Kirk Hallam is not supervised by overlooking from existing properties. It is isolated and it feels isolated.

- 4.3 The appellant quotes the National Travel Survey as recording that people who already choose to make journeys on foot, do so for average distances of ~1.3km. Total journey distances for a walk from a house at the centre of the site to and from the local centre at Kirk Hallam would be approximately double that. People who already walk would be unlikely to walk to Kirk Hallam and those who do not currently choose to walk for such journeys are even less likely to.
- 4.4 The Kirk Hallam convenience shop is not conveniently located for those who would live at the appeal site.
- 4.5 There are no bus routes along Sowbrook Lane between the appeal site and the local centre.
- 4.6 The 40mph speed limit and the physical characteristics of the carriageway do not provide an environment conducive to encouraging people to cycle from the site to facilities at Kirk Hallam.

Route to Ilkeston Town Centre

- 4.7 The appellant's Transport Addendum does not contend that services and facilities in the town centre are in walking distance. The appellant suggests that it had never been envisaged that people would travel on foot in that direction and that they would have to use alternative means of travel. This demonstrates the unsuitability of the location.
- 4.8 Highway routes to the town centre entail travel along Ilkeston Road, a classified road with a 40mph speed limit. It has no segregated cycle provision, is heavily used by HGVs and is so narrow that on either side of the carriageway one can observe evidence of vehicles veering off it. Such circumstances are not conducive to encouraging new occupiers to commute by bicycle.
- 4.9 Suggested connectivity from the site to leisure routes on the Nutbrook Canal and Nutbrook Trail requires the involvement of third party landowners whose willingness has not been demonstrated. It would entail the provision of a crossing at a hazardous location for which no safety assessment has been undertaken. It would take people onto unlit and unsupervised paths which remain remote from the town centre. It is not conducive to encouraging people to commute by foot or bicycle.
- 4.10 The appellant proposes to fund a limited extension to an existing bus service for a temporary period. The service would remain limited and further demonstrates the unsuitability of this location for a housing development.
- 4.11 It is inevitable that considerable reliance would be placed on the use of private motor vehicles.

5 Consequence

- 5.1 Strategic housing policies of the Core Strategy are out of date and the council cannot demonstrate a 5-year housing land supply, prompting the engagement of NPPF Paragraph 11.
- 5.2 The proof of evidence in relation to RfR7, regarding harm to the listed cottages, concludes that the harm is at the lower end of the Less Than Substantial Harm scale. With regard to the NPPF para 202 test, the development would not provide any benefit to the heritage asset, however, it is considered that the weight which the public benefits attract outweighs the harm. Consequently, it is agreed that para. 11(d)(i) is not engaged.

Benefits in relation to 5 year housing land supply

- 5.3 The shortfall against the 5-year housing land supply is significant. However, the council's emerging Core Strategy demonstrates a route to overcoming that shortfall in its entirety. In contributing up to 196 houses, the development has the potential to reduce the shortfall. However, the size and location of the scheme would also result in the council having to revisit its plan, delaying examination of it. Consequently, rather than assisting with the deficit in supply, approval of the scheme would result in a prolonging of that deficit.
- 5.4 It would inevitably be some years before the proposed development could be occupied. Over the time frame which would be required for that delivery, the emerging Core Strategy provides a more appropriate mechanism for meeting the housing needs of the borough.
- 5.5 The scheme would result in the shortfall persisting for a longer period through delaying examination of the emerging plan. The weight which the contribution to housing supply would attract would be moderate.
- 5.6 Economic and other benefits would attract limited and moderate weights.

Assessment of most important development plan policies

- 5.7 The most important development plan policies for determination of the appeal are those referred to in reasons for refusal 1 and 5. These are Core Strategy Policies 10: Design and Enhancing Local Identity and 14: Managing Travel Demand and Saved Local Plan Policy H12 – Quality & Design. These are all considered to be consistent with the NPPF. Therefore, they attract significant weight and should be considered up-to-date for the purposes of paragraph 11 of the NPPF and the appeal falls to be determined by means of a straight planning balance, i.e. in accordance with the development plan, unless material considerations indicate otherwise.

Direct harms arising

- 5.8 The site is in an unsustainable location, contrary to the principles of sustainable development running through the NPPF. The development would not be part

of an existing place and would have no sense of place, being disconnected from any settlement.

- 5.9 It is remote from services, with poor options for walking and cycling to services and settlements. Occupiers would be heavily reliant on the use of the private car to access any facilities and services, causing an unsustainable pattern of travel.
- 5.10 Removal of considerable lengths of hedgerow would harm visual amenity. The development would have a harmful visual impact arising from an urbanising effect which would be visible from a range of vantage points and which would be amplified by the engineered accesses themselves and the additional visibility which would arise from the removal of boundary hedges to provide the accesses.
- 5.11 Harm would be caused to the setting of the listed New Stanton Cottages.
- 5.12 All of these factors attract great weight against the proposal.

Planning balance

- 5.13 Allowing this housing development in this location would cause the 5 year housing land supply shortfall to be continued, through delaying examination of the emerging Core Strategy. This weighs against the development.
- 5.14 Some limited and moderate benefits have been identified. The combined weight which they attract is limited.
- 5.15 The relevant local plan policies are consistent with the framework and as such attract great weight.
- 5.16 The harms which would be caused attract great weight individually and collectively.
- 5.17 With reference to paragraph 11d of the NPPF, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits identified, when assessed against the policies of the Framework as a whole.
- 5.18 There are no material considerations that would justify determining this application other than by reference to the development plan.
- 5.19 As the proposal is clearly contrary to the development plan, it should be refused.

Summary

- 5.20 It is a matter of great importance that a 5 year housing land supply is provided. It is acknowledged that policies relating to housing are out of date and as such

they attract reduced weight. However, that does not justify the abandonment of the fundamental elements of good planning, which the provision of a large scale housing development unconnected to any existing settlement would be contrary to.

- 5.21 Approval of this scheme would delay the plan making process, resulting in the housing shortfall persisting for a longer period.
- 5.22 The most important policies of the development plan are consistent with the NPPF and as such attract significant weight.
- 5.23 The harms which would be caused would be contrary to those policies.
- 5.24 A limited number of benefits have been identified. The weight which can be accorded to them does not provide a counter-balance to the weight accorded to the identified harms, the weights of which are increased by the policies being consistent with the framework.
- 5.25 The tilted balance in para. 11(d)(ii) is engaged, but, as a result of the factors identified, the test set out in it is not passed.