

Briefing Note: Rushcliffe borough Council Five-year housing land supply and Aslockton planning appeal – February 2016

Aslockton Appeal

1. In respect of the proposed housing development at Aslockton that was recently approved at appeal, The Council argued that it could currently demonstrate a five year land supply (5.10 years) but the Inspector reached the view that it could not. This was due, in part, to a difference in how the calculation of the five year housing supply should be made. The Inspector's view was that the Council's housing land supply currently amounts to, at best, 4.8 years. The inspector also raised concerns in respect of the immediate prospect of achieving a five-year land supply given the evident slippage on the strategic allocated sites.
2. For these reasons, along with the Inspector's view that Aslockton could reasonably sustain the 75 homes proposed, the appeal was allowed and planning permission granted.
3. Following the appeal decision the Council's solicitor had informal discussions with the barrister who represented the Council at the Inquiry to consider whether this decision should be challenged. They are both of the opinion that the decision discloses no error of law which could form the basis of a legal challenge in the High Court. The Council has not, therefore, challenged this decision.
4. This appeal outcome is disappointing but before accepting that it will set a precedent it must be recognised that each application must be considered on its own merits and, for example, the application for land on the North side of Abbey Lane, Aslockton was refused for technical reasons relating to issues such as the impact of the development on the conservation area, highway and amenity issues.

Planning Policy Background

5. The National Planning Policy Framework (NPPF) sets out that local planning authorities should identify and update annually whether or not they have a supply of 'specific deliverable' sites sufficient to provide five years' worth of housing against their overall housing requirement.
6. Where LPAs cannot demonstrate a five-year housing supply at any point during the plan period, even recently adopted planning policies for the supply of housing will be considered 'out of date' in respect of the determination of particular planning applications.
7. This is important given that the NPPF states that where relevant policies are out-of-date, permission should be granted unless any adverse impacts outweigh the benefits, or other policies indicate otherwise, when assessed against the NPPF. The NPPF sets out that in such cases there is a 'presumption in favour of development'.
8. An LPA can, however, move from not having a five-year land supply to the position where one exists (typically where sufficient planning permissions are granted during the year). In which case, the same local plan policies relating to housing supply would become up to date again.
9. Even at the time the Core Strategy was adopted, Rushcliffe only just had a demonstrable five-year housing land supply and maintaining this year after year during the plan period was very much subject to the early and continued delivery of all the Core Strategy's strategic allocations/major urban extensions. Should their delivery slip from what was anticipated, as is happening, demonstrating a five-year housing land supply becomes increasingly difficult to achieve.

10. Experience nationally is increasingly showing that it is difficult for LPAs to defend the refusal of planning applications at appeal where it is judged that there is not a five year housing land supply. The Government appears to be applying a lot of pressure on the Planning Inspectorate to grant planning permission in such circumstances.

11. Around half of Nottinghamshire's LPAs do not, based on latest available figures, have a five-year housing land supply.

Delivery on Strategic Housing Allocations

12. The Appendix to this briefing note details current progress on the strategic sites and illustrates how the Council has worked with the Applicants/Developers to try to unlock delivery.

- Worked directly with the Homes and Community Agency and other partners to commence delivery on the Cotgrave Strategic Allocation
- Developed a Supplementary Planning Document for the Melton Road, Edwalton Strategic Allocation in the absence of housing developers coming together
- Successfully bid for £6.25 million of growth point money to support the delivery of Employment and Town Centres improvements at Cotgrave, Bingham and Newton Strategic Allocations
- Reduced affordable Housing requirements on Bingham Strategic Allocation to improve viability
- Ongoing work with developers in relation to viability

Summary

13. To summarise on the main strategic allocations the Council has been flexible to ensure viability issues are considered, successfully sought financial contributions and introduced supporting planning policy to encourage development to commence.

14. It is considered that the government approach to the need for a five year housing supply illustrates the inflexibility and bluntness of Government policy in relation to the speed of housing delivery. In Rushcliffe's case, a sizeable element of the housing being provided is to partly meet the needs of Nottingham City, which it is unable to physically accommodate housing numbers due to a lack of space, and which has, therefore, been logically provided for through the allocation of three major urban extensions around West Bridgford and to the south of Clifton.

15. The difficulty with the current situation is that if there is even the slightest delay in developers building on these sites, as has been the case, national planning policy has created the situation whereby this has to be made up for elsewhere within the Borough even if this happens to be on a site that is miles away from Nottingham and in a location far less able to sustain new homes.

16. The fact that this situation has arisen barely 12 months after adoption of the Local Plan only emphasises in, our view, the inadequacy of this aspect of national planning policy.

17. The Council based on this latest appeal is currently considering how best to raise these concerns with Central Government.

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Appendix - Update on Strategic Sites

Strategic Allocation	Dwellings identified by Core Strategy for delivery	Latest progress
South of Clifton	3,000	<p>An outline planning application was submitted in July 2014 for up to 3,000 dwellings and new employment. The Council is currently awaiting submission of additional information by the applicant, including highway information and results of archaeological trenching work.</p> <p>The determination of the application will be progressed further on receipt of the additional information. It is likely that when this additional information is received that the application will need to be subject to further publicity/consultation.</p>
Melton Road, Edwalton and Melton Road Triangle	1,500	<p>An outline planning application for 1,200 dwellings granted on appeal in 2009 by the Secretary of State. Planning permission was technically started but no homes have been delivered under this permission.</p> <p>The Edwalton Development Framework Supplementary Planning Document was approved in October 2015 to help coordinate the delivery of a new set of planning applications for the site.</p> <p>The whole site is now expected to be delivered through seven separate full planning permissions. The first two were granted permission in December 2015 – for 261 dwellings and 280 dwellings. A third application (for 386 dwellings) is due to be granted permission imminently. Further planning applications are yet to be submitted. The first dwellings are expected to be delivered in the next few months.</p>
East of Gamston and Nottingham Airport	2,500 by 2028. A further 1,500 dwellings post 2028	<p>Pre-application discussions are taking place between the Borough Council and the developers. An outline planning application for the whole site is currently anticipated during 2016.</p>
Former RAF Newton Phase 2	550	<p>Outline planning permission for 550 dwellings and new employment land was granted in January 2014. This is the second phase to the site, the first phase having been completed in 2014.</p> <p>One of the conditions of the planning permission is for a footbridge to be provided across the A46. A further planning application has been submitted to remove this condition and this is currently being considered by the Council. Development of the 550 dwellings has, therefore, not yet started.</p> <p>The Borough Council has secured funding from the Local Enterprise Partnership to fund infrastructure - £750k agreed for this site is to support delivery of employment land.</p>

Strategic Allocation	Dwellings identified by Core Strategy for delivery	Latest progress
Former Cotgrave Colliery	470	<p>Outline planning permission for 470 dwellings and employment uses was granted March 2011. Around 100 dwellings have been completed or are under construction (around 40 sales completed).</p> <p>The Borough Council has secured funding from the Local Enterprise Partnership to fund infrastructure - £3.0 million agreed for this site to deliver improvements to the town centre and delivery of employment units.</p>
North of Bingham	1050	<p>Outline planning permission including for 1050 dwellings and employment development was granted December 2013. Recent discussions have been taking place with the Crown Estate and a number of developers with a view to bringing forward an application for the approval of reserved matters on part(s) of the site. An application is expected by Autumn 2016.</p> <p>The Borough Council has secured funding from the Local Enterprise Partnership to fund infrastructure - £2.5 million agreed for this site is to provide flood alleviation works. Development of the 550 dwellings has, therefore, not yet started. It is currently expected that delivery could commence within the 2016-2017.</p>