

## Appeal Decision

Site visit made on 1 November 2016

**by David Cross BA (Hons), PGDip, MRTPI**

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

**Decision date: 28 November 2016**

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**Appeal Ref: APP/W9500/W/16/3151512**  
**Land off Quarry Lane, Osmotherley DL6 3AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Stephen Kelly against the decision of the North York Moors National Park Authority.
  - The application Ref NYM/2015/0703/FL, dated 19 September 2015, was refused by notice dated 10 December 2015.
  - The development proposed is stated on the application form to be "To erect a single new dwelling with enclosed garage/workshop area with additional water tank detail to supply the proposed property. The proposed property is to be a sustainable built, echo, earth sheltered property which will be built on a brown field site inside a disused quarry using new techniques and recycled materials".
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by North York Moors National Park against Mr Stephen Kelly. This application is the subject of a separate Decision.

### Main Issues

3. The main issues in this appeal are:
    - whether the proposed development would provide a suitable site for a dwelling, with due regard to the location of the site within the countryside and the North York Moors National Park;
    - whether the dwelling would be of such exceptional quality or innovative nature of design so as to amount to special circumstances, given local and national planning policy for the protection of the countryside;
    - whether sufficient information has been provided in terms of biodiversity, with particular regard to protected species; and
    - whether sufficient information has been provided in relation to highway safety.
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## Reasons

### *The suitability of the site for housing development*

4. The appeal site consists of a former quarry which has been disused for a long period of time and which has regenerated naturally into a woodland bog habitat. It is located on Quarry Lane, which leads from the village of Osmotherley and into the wider countryside of the North York Moors National Park (NP).
5. The site is located some distance to the north of Osmotherley, and I saw at my site visit that the site is clearly separated from the built up area of the village. The appellant has stated that the site is within a 15 minute walking distance of the services within the village. However, the majority of the road leading to the village does not have a separate footway, is not lit and is not overlooked by adjacent properties. This would be likely to discourage residents of the dwelling from accessing these services on foot or by bicycle, particularly at night. The site is therefore isolated from local services and in a location which would foster reliance on the private car.
6. For the above reasons, I conclude that the appeal site does not represent a suitable location for housing development. Rather, the proposal conflicts with Core Policies B and J of the NP Core Strategy and Development Policies 2008 (CSDP) which state that, amongst other things, housing in the open countryside will be restricted to that which is proven as essential for farming, forestry or other essential land management activities. These Policies are broadly consistent the provisions of the National Planning Policy Framework (the Framework) and in particular Paragraph 55 with respect to essential rural accommodation and Paragraph 115 which states that great weight should be given to conserving the landscape and scenic beauty in National Parks.

### *Whether the dwelling would be of exceptional quality or innovative nature of design*

7. Paragraph 55 of the Framework indicates that new housing of exceptional quality or innovative nature of design can be a special circumstance in support of new isolated homes in the countryside. Such a proposal should help to raise standards of design more generally in rural areas; it should reflect the highest standards in architecture; should significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
8. In relation to design and architecture, the proposal has regard to its setting as it uses the topography of the quarry to dictate the form of the dwelling. I also acknowledge that the proposal includes potentially positive features including a green roof, water harvesting and a double walled form of construction making use of recycled materials as insulation. However, limited technical evidence has been provided in relation to the implementation and effectiveness of these features. Furthermore, many of these features have been implemented as part of sustainable development projects elsewhere, and I am not persuaded that the proposal helps to raise standards of design on these matters in rural areas. Whilst there are elements of the design and architecture of the proposal which are laudable, I am not persuaded that this meets the aims of this element of Paragraph 55.
9. In relation to setting and character, the wooded quarry is a significant feature on Quarry Lane and is representative of the history of the area around

Osmotherley. Whilst the layout of the dwelling responds to the topographical setting within the quarry, I do not consider that it would enhance this setting. I acknowledge that the design attempts to minimise the visibility of the dwelling from Quarry Lane through the use of stone facing and planting. However, I consider that the front elevation of the dwelling would be readily apparent due to its height and scale, and which even the sensitive use of stonework and ivy would not be able to fully address.

10. Furthermore, the parking area and highway access would introduce suburban features which would detract from character of the quarry. Light emanating from the windows on the rear of the dwelling would be apparent at night, particularly from the countryside to the west. I am therefore of the opinion that, for the reasons stated, the proposal would not significantly enhance this setting and would in fact detract from the appearance of the quarry and the local area.
11. In conclusion on this matter, I find that the proposal would not meet the exceptional quality required to make the design of the dwelling truly outstanding or innovative. Accordingly, the proposal does not meet the circumstances necessary to comply with Paragraph 55 of the Framework.

#### *Biodiversity and Protected Species*

12. The Authority has stated that the site could contain a habitat that would be damaged by the proposal and has highlighted bat roosts and a regionally important toad breeding site located in the area. I have had regard to the Environmental Statement accompanying the application, which includes a number of observations in relation to species activity as well as recommendations as to how potential impacts could be addressed as part of the development. However, there is no evidence of that this statement was prepared by a suitably qualified individual and would not appear to have been undertaken in accordance with recognised good practice. In particular, I note the comments from the Yorkshire Wildlife Trust that the quarry face and surrounding trees have not been assessed for potential bat roosts. For these reasons, I can afford the results of this Environmental Statement very little weight.
13. As a suitable study has not been undertaken in relation to protected species on or near the site it is therefore not possible to ascertain the likely impacts on these species. In these circumstances I have to conclude that the appeal proposal has not provided adequate information on matters of biodiversity and protected species. The proposal therefore conflicts with Core Policy C of the CSDP which states that development should provide an appropriate level of protection to protected species. This policy is broadly consistent with the provisions of the Framework in relation to conserving and enhancing the natural environment, and Paragraph 115 which states that great weight should be given to the conservation of wildlife in National Parks.

#### *Highway Safety*

14. It is proposed to provide vehicular and pedestrian access into the site via a gated entrance which would be set back from Quarry Lane. At the time of my site visit Quarry Lane appeared to be a well-used route for both walkers and traffic accessing the surrounding countryside.

15. The Highways Authority has requested further information in relation to a number of issues, including the provision of visibility splays, gradients within the site, parking provision and provision for construction traffic. From the evidence provided to me, this has not been submitted by the appellant.
16. I have considered whether such works could be required by a suitable condition. However, there is no evidence before me to demonstrate that the necessary visibility splays as well as parking and manoeuvring space could be achieved within the constraints of the site.
17. Furthermore, the site is readily visible in views along Quarry Lane and the character and appearance of the site and the wider area could therefore be affected by works to create a suitable access. The introduction of visibility splays, parking provision, driveways etc. may introduce a suburban character to the front of the site which would detract from the appearance of the area. The visual impact of the access is likely to be exacerbated as the site is higher than the adjacent road, which may increase the extent of required works as well as their prominence as a result of the elevated position.
18. Due to nature of the proposal, the topography of the site and the sensitivity of the site and the surrounding area, I am not persuaded that that a viable and effective solution would be available. Consequently, it would not be suitable to attempt to deal with this matter by condition.
19. I therefore conclude that insufficient information has been provided in relation to highway safety and that the appellant is unable to demonstrate that the site can be accessed in a safe manner. The proposal therefore conflicts with Development Policy 23 of the CSDP which requires that highway detailing of development is complementary to the character of the area and is the minimum required to achieve safe access. In terms of safe access requirements, this Policy is broadly consistent with the provisions of the Framework.

#### *Other Matters*

20. The appellant has stated that the proposal would be on a brownfield site. I accept that encouragement is given in Paragraph 17 of the Framework to the reuse of land that has been previously developed (brownfield land), provided that it is not of high environmental value. However, I consider that the site does not fall within the definition of 'previously developed land' given in Annex 2 of the Framework in that it has not been occupied by a permanent structure and has blended into the landscape as it returns to nature. In any case, for the reasons stated previously, I consider that the site is of high environmental value both in terms of its setting within the National Park and its potential as a habitat for protected species. Therefore, Paragraph 17 of the Framework does not support the proposal.
21. I have also taken into account the statement by the appellant that he wishes to build the dwelling for the accommodation of his family. Whilst I recognise that this would comply with the aim of the Framework to encourage a mix of housing provision, including for people wishing to build their own homes, I do not consider that this outweighs the harm I have identified previously.
22. In support of the appeal, the appellant has drawn my attention to another example of housing development to the west of Osmotherley. However, I am

not aware of the particular circumstances that applied to that development so cannot be sure that it represents a direct parallel to the current appeal. In any case, I have determined the appeal on its own merits.

23. I note the frustrations expressed by the appellant in relation to the advice from the Council and the decision process leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.
24. I have had regard to the comments in support of the proposal, including matters relating to the recycling of waste materials and the provision of self build schemes. However, for the reasons identified above, these matters do not outweigh the harm I have identified.
25. I have also taken into account other concerns raised locally, including the need for the development, access in winter, utilities, precedent, land stability, impact on businesses and noise. However, they do not add to my reasons for dismissing this appeal.

### **Conclusion**

26. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR