
Appeal Decision

Site visit made on 19 December 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 20 January 2017

Appeal Ref: APP/E0915/W/16/3160411

Farndale, Sandy Lane, Heads Nook, Brampton, Cumbria CA8 9BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dr Jennifer Deeble against the decision of Carlisle City Council.
 - The application Ref 16/0196, received by the Council on 15 March 2016, was refused by notice dated 8 July 2016.
 - The application sought planning permission for erection of replacement dwelling (revised application) without complying with conditions attached to planning permission Ref 13/0916, dated 14 January 2014.
 - The conditions in dispute are Nos 8 and 13 which state that:
 - 8. The Local Planning Authority shall be informed in writing upon first occupation of the dwelling hereby approved. Within 3 months of the first occupation of the dwelling hereby approved, the existing property known as 'Farndale', shown on Block Plan As Existing Drawing no. 3001/2, shall be demolished and all associated materials removed from site.
 - 13. Before the first occupation of the dwelling hereby approved, the existing accesses to the highway shown on the Block Plan As Existing Drawing no. 3001/2 shall be permanently closed and the highway crossings and boundaries shall be reinstated in accordance with details have been submitted to and approved in writing by the Local Planning Authority.
 - The reasons given for the conditions are:
 - 8. To prevent the retention of the existing dwelling that would be contrary to Policy H1 of the Carlisle District Local Plan 2001-2016.
 - 13. In the interests of highway safety and to support Local Transport Plan Policies LD5, LD7 and LD8.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has provided two decision notices, one stating that planning permission has been refused and the other that it has been approved, both with the same application reference and decision date. However the approval notice includes the partial text of the refusal reasons which are set out in full on the refusal notice and it also contains Advisory Statements which refer to a refusal. On the basis of the evidence before me I consider that these can reasonably be read that the Council's decision was one of refusal. I have therefore determined the appeal on this basis.
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3. The application form was undated and I have therefore used the date the Council received the application in the heading above.
4. Since it made its decision the Council have confirmed that the Carlisle District Local Plan 2015-2030, 2016 (CDLP) was adopted on 8 November 2016, that this now forms the development plan for the District and that it has replaced the Carlisle District Local Plan 2001-2016, a policy of which is referred to in the reason given for attaching condition 8. The appeal must be determined on the basis of the development plan as it exists at the time of my decision and I have therefore referred to CDLP policies below and make no further reference to the previous development plan.

Background and Main Issues

5. Planning permission was granted in 2014 for a replacement dwelling subject to a number of conditions, including those requiring the removal of the original bungalow on the plot, known as Farndale, and closing up its former accesses. The appellant seeks a planning permission without the requirements of such conditions to enable Farndale to be retained to provide accommodation for an older person. The effect of a planning permission without the conditions in contention would be the creation of an additional, rather than a replacement, dwelling in close proximity to the other and with separate highway access.
6. Therefore the main issues raised by this appeal are whether the conditions are necessary having regard to: i) development plan and national policies relating to housing in the countryside; ii) the living conditions of the occupiers of Farndale, with particular reference to their privacy, and; iii) highway safety.

Reasons

Housing in the countryside

7. The appeal site is a triangular plot surrounded by fields which contains Farndale and associated outbuildings and a new two storey house and detached garage. The site is not situated within an existing settlement and is one of a number of isolated and scattered groups of buildings which are dispersed along Sandy Lane and set within open countryside.
8. CDLP Policy HO 6 only allows new housing in the countryside in special circumstances which are for rural workers, replacement dwellings and conversions, subject to a range of criteria. The National Planning Policy Framework (the Framework) also seeks to avoid isolated new homes in the countryside unless there are special circumstances¹. As the site does not lie within or on the edge of a village it would not fulfil the circumstances in which CDLP Policy HO 2 permits 'windfall' housing.
9. The appellant proposes that Farndale would provide permanent supported housing for an elderly person; initially her and subsequently another elderly person with her son's partner providing care. This would enable both her and her son to live independently and in privacy but close to one another, in an area to which she has strong personal connections and with access to care.
10. CDLP Policy HO 10 sets out the Council's approach to the delivery of specialist housing for vulnerable people including for the ageing population. This states

¹ Paragraph 55.

that new development to meet a particular need will be acceptable in appropriate, sustainable locations which, for example, could be close to a range of services and facilities.

11. The appellant advises that services in Warwick Bridge are just under a mile from the site, and the school in Great Corby nearer. Nonetheless, the route in both directions is largely unlit, predominantly without separate footways and unlikely to be attractive as a regular route to all but dedicated walkers or cyclists, particularly in hours of darkness and inclement weather. As such it is likely that occupiers of both dwellings, or their carers, would be likely to rely on private motor vehicles to satisfy the majority of their day to day needs. I do not consider that the site occupies an accessible or sustainable location in this respect nor could it reasonably be considered as being close to services and facilities. The availability of utilities on the site is to be expected in light of the existing dwelling but would not render the site a more sustainable one as a result.
12. However, paragraph 5.84 which supports CDLP Policy HO 10, sets out that locations which may not benefit from local services and facilities could still be considered sustainable in terms of the community or family support for a specialist housing need.
13. This supporting text does not have the force of CDLP Policy HO 10 itself, which does not include such a criteria in its specification of sustainable locations, nor does it suggest that such a consideration should override other policies in the plan. However, this interpretation could mean that, despite its isolated situation, the proposal could perform part of the social role which the Framework² requires sustainable development to demonstrate. Whilst the provision of supported housing for older persons is not one of the special circumstances the Framework sets out as exceptions to the avoidance of isolated new homes in the countryside, this is not necessarily an exclusive list.
14. However, the Framework emphasises that the three roles of sustainable development are mutually dependent and should not be undertaken in isolation. There is no evidence to suggest the retention of Farndale would perform an economic role. The effective creation of an additional dwelling in the countryside would not support the environmental role the Framework requires sustainable development to fulfil as a result of the harm arising from the locational factors explored above. This would therefore not weigh in favour of an isolated new home set apart from facilities and services.
15. In support of her appeal the appellant has referred to guidance in the Planning Practice Guidance (PPG) as to how Councils should assess their housing needs³, including housing for older people. This recognises that the need to provide such housing is a critical one and that older people may wish to live in general housing that is already available. However, there is no suggestion that such housing needs have not been appropriately planned for in the recently adopted CDLP such that older person's needs would have to be met in locations which conflict with national and development plan policy.
16. Furthermore, I have not been presented with any evidence that the appellant's suggestion that a planning condition to restrict the use of Farndale to that of

² Paragraphs 7 and 8.

³ Paragraph: 02, reference ID: 2a-021-20160401.

providing supported housing for older persons in perpetuity, would meet the tests the Framework⁴ and the PPG⁵ require planning conditions to comply with.

17. I do not consider that Farndale or its replacement, which from the evidence available are both independent and self-contained dwellings, could reasonably be considered as annexes to one or the other such that they could be supported by the approach CDLP paragraph 5.85 sets out for accommodation for elderly, disabled or dependent persons in such arrangements.
18. The appellant has suggested that the retention of Farndale would also satisfy the Framework's special circumstances where isolated new homes may be acceptable as it would result in the re-use of a redundant or disused building. However, there is no evidence to suggest that Farndale is redundant or disused. Notwithstanding the appellant's intentions for its use, it could only be considered 'redundant' inasmuch as it would no longer be required once the replacement dwelling is occupied. However, the effect of condition 8 would mean that it would not remain so for long. I do not, therefore, accept that the circumstances are such that the appeal proposal would be supported by the Framework's exception in this regard.
19. I have considerable sympathy for the appellant's personal situation and appreciate her desire to offer such supported accommodation in the future. I also acknowledge the degree of backing for providing older persons' accommodation the supporting text to CDLP Policy HO 10 could give. However on balance I do not consider that the proposal represents the special circumstances which would direct an approach contrary to the development plan's and the Framework's aim to avoid isolated new homes in the countryside. As such a planning permission without condition 8 would be contrary to CDLP Policies HO 6 and SP 2 which seek to avoid unjustified encroachment into the open countryside and only permit housing in such locations where there are special circumstances.

Living conditions

20. I was able to view Farndale from the, as yet, incomplete balcony on the replacement house. The close proximity and relative juxtaposition of the two buildings is such that overlooking would occur of the rear aspect of the bungalow and windows serving habitable rooms. This would harmfully reduce the privacy of any occupiers of Farndale in the event it were to be retained.
21. Occupancy of the two dwellings by members of the same family would not significantly reduce the harm of any loss of privacy and in any event it is the appellant's intention that others would occupy Farndale in the future. Some form of screening along the balcony's south elevation, as suggested without prejudice by the Council, may reduce or avoid actual overlooking. Nevertheless, even a screened balcony in an elevated position would remain in close proximity to the rear of Farndale and the outdoor space immediately outside. As such it would still have an unacceptably intrusive effect as a result of perceived loss of privacy and disturbance from any activity on the balcony.
22. The effect of a planning permission without condition 8 would therefore give rise to harm to the living conditions of the occupiers of Farndale, contrary to

⁴ Paragraph 206.

⁵ Use of planning conditions category.

criterion 7. of CDLP Policy SP 6, as supported by the Council's guidance⁶, and the Framework's core planning principle⁷ of always seeking a good standard of amenity for all existing and future occupants of land and buildings.

Highway safety

23. A planning permission without the requirements of condition 13 would enable a retained Farndale to keep its own access, separate from that of the new house. The Council have not identified any highway safety issues in this regard and Cumbria County Council, in its capacity as Highway Authority, raised no objection to the proposal.
24. However, the removal of redundant accesses would be prudent and represent good practice to ensure the effective implementation of the replacement dwelling scheme and would avoid a proliferation of vehicular accesses onto the narrow Sandy Lane. Therefore, notwithstanding that the retention of existing accesses would not necessarily be materially harmful to highway safety, it would nevertheless be necessary to close any redundant accesses associated with Farndale as set out in condition 13 in light of my findings on the necessity of condition 8.

Other Matters

25. I note that Wetheral Parish Council had no observations and no other objections were received to the planning application, but this does not amount to a positive consideration.
26. I have considered the Council's argument that the proposal could set a precedent for similar proposals where planning permission has been granted for replacement dwellings on condition that the original dwelling is demolished. Whilst each application and appeal must be determined on its individual merits and the appellant's personal circumstances are specific to her, I can appreciate the Council's concern that were I to allow this appeal it could be used in support of similar proposals which could undermine the implementation of CDLP Policy HO 6 and the concession it provides for replacement dwellings in the countryside in specified circumstances. Although my decision does not turn on this matter, it adds some weight to my conclusion on the main issues.

Conclusion

27. For the reasons set out above, and having had regard to all other matters raised, the conditions are necessary in order to avoid the creation of an isolated new dwelling in the countryside and avoid harm to the living conditions of the occupiers of Farndale which would otherwise be contrary to the development plan and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

⁶ Achieving Well Designed Housing – Supplementary Planning Document, 2011.

⁷ Paragraph 17.