
Appeal Decision

Site visit made on 31 January 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 23rd March 2017

Appeal Ref: APP/X1355/W/16/3161144

Low Etherley Farm, Low Etherley, Bishop Auckland, DL14 0EU.

- 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 Lee against the decision of Durham County Council.
 - The application Ref: DM/16/01611/FPA, dated 18 May 2016, was refused by notice dated 22 July 2016.
 - The development proposed is demolition of existing farm buildings and erection of 1no. dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The planning application form describes the appeal proposal as 'Proposed dwelling' whereas the decision notice describes it as 'Demolition of existing farm buildings and erection of 1no. dwelling'. The latter is slightly more accurate, and I note that the appellant has adopted this on the appeal form. I have, therefore, used this description for the purposes of the appeal.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area and the surrounding landscape.

Reasons

4. Saved Policy ENV1 of the Wear Valley District Local Plan 1997 (the Local Plan) seeks to protect and enhance the countryside and only allows for development that is required for the purposes of agriculture, farm diversification, forestry or outdoor recreation or related to existing compatible countryside uses. The appeal site is not within the development limit for Etherley and Toft Hill and is consequently within the Countryside for the purposes of Policy ENV1. The appeal proposal is not for one of the specified purposes and it is, therefore, contrary to Policy ENV1.
 5. As Policy ENV1 seeks to constrain the development of land in the countryside for housing, it is a relevant policy for supply of housing. The Council concedes that it does not have a deliverable five years housing land supply. As a result of the absence of a five year supply of deliverable housing sites, Policy ENV1 cannot be considered up to date.
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6. However, the fact that a relevant policy is not up to date does not mean that it can be disregarded, as it remains part of the development plan. Rural restraint policies encourage development in existing settlements and help protect the intrinsic value and character of the countryside which is in line with the objectives of sustainable development. Therefore, significant weight can still be given to Policy ENV1.
7. Saved Policy GD1 sets out various criteria that will be applied to all new development. Amongst these is criterion (xi) which seeks to ensure that new development would not have a detrimental impact on the landscape quality of the surrounding area.
8. The appeal site extends to approximately 0.1 hectares and is part of a larger agricultural field that is enclosed by a hedgerow. In the south west corner of the field is a dilapidated, single storey, agricultural building. The appeal site is located on the edge of Low Etherley which together with High Etherley and Toft Hill forms one continuous village, with a central core focussed on High Etherley and linear, ribbon, development extending outwards along the A68 and B6282 roads. Low Etherley is typified by its linear form running through open countryside, with very little development in depth away from the main road.
9. The surrounding landscape is gently rolling, consisting of small to medium sized fields, generally with hedgerow boundaries containing isolated trees, and some small blocks of woodland. Outside of the larger settlements, built development generally takes a linear form along roads or, in the case of agricultural buildings, small groups at the roadside or set back along a lane or track. A public right of way footpath passes the appeal site and then links with a network of public footpaths in the countryside to the north.
10. It is common ground between the parties that the design of the proposed dwelling, of itself, is not inherently objectionable. Nonetheless, the proposed development would introduce a new house into a further field behind the existing built form of the village, extending the village into an area which is currently open countryside. Whilst the field did not appear to be in active use at the time of my site visit and there is currently a low agricultural building in the south west corner of the appeal site, nonetheless, the dwelling proposed is larger and taller than the existing building and with the addition of the domestic curtilage would introduce significant urbanising elements into what is currently an agricultural field. This would extend the built form of the village behind the main road and encroach into the field structure to the north of the village.
11. This field structure consists of small to medium sized, semi-regular shaped, fields bounded by hedges. The development of the appeal site, whilst it would be bounded by a hedge, would create an irregular sub-division of an existing agricultural field that would be inconsistent with the existing field structure, the form of which is apparent when viewed by users of the footpath network to the north.
12. I note that planning permission has been granted for the construction of three houses on a site immediately to the west of the appeal site and I saw that work had commenced on this when I visited the site. Although this has resulted in development behind the existing, linear, form of the village, I am mindful that this site lies within the development limits for the village, and that the Council states that permission was granted on the basis that the development did not

result in encroachment of development into the surrounding countryside, as it fell mostly within the former farm yard and replaced existing buildings in poor condition.

13. The appellant suggests that the proposed development would round off the settlement by providing a hedgerow boundary around the appeal site and, in combination with the approved development on the adjoining land, would appear as a redeveloped farm complex. Rounding off of settlements is generally considered to be the completion of an incomplete group of buildings, in such a way that finally defines and completes the boundaries of the group. In this case the proposed development would extend a previously approved group of buildings onto a field that, whilst containing a small agricultural building in one corner, is otherwise undeveloped and would create a new boundary within the field, unrelated to the existing field boundaries.
14. I have been provided by the appellant with a drawing that shows the layout of the previously approved development of three houses¹. From this drawing and from what I saw on my site visit, the boundary of this previously approved scheme is logical and relates to existing features on the ground. Consequently, I do not find the argument that the proposed development is rounding off, that would complete or define the boundaries of a group of buildings, a compelling one.
15. It is also suggested that the proposed development would improve the appearance of the site by the removal of the redundant and deteriorating agricultural building. I note that the drawing for the previously approved scheme shows this building to be removed and the hedgerow boundary to the field re-instated. With the exception of the existing building on the site, which is in a poor state of repair, the land itself was not in such a condition as to be detrimental to the character or appearance of the landscape. Due to this I can attach only limited weight to this point.
16. I therefore find that the proposed development would cause harm to the character and appearance of the area and the surrounding landscape. It would be contrary to Saved Policies ENV1 and GD1(xi) of the Local Plan which seek to ensure that the countryside is protected and that new development would not have a detrimental impact on the quality of the landscape.

Other matters

17. My attention has been drawn to a number of other sites beyond the settlement limit for Etherley and Toft Hill where planning permission has been granted for residential development and I was able to see these when I visited the appeal site.
18. I do not have the full details of these proposals, although I have been provided with copies of the Council's reports in connection with them. From these reports and from viewing the sites, these developments proposed frontage development contiguous with, or between, existing frontage development which would be consistent with the built form of the settlement. Consequently, I do not consider that these cases are sufficiently similar to the case before me to represent a direct parallel. In any event I have determined this appeal on its own merits.

¹ Drawing ML01 Proposed Site Plan & Proposed Street Scene

19. My attention has also been drawn to the fact that the Coal Authority raised a fundamental concern in respect of the proposal relating to the lack of a Coal Mining Risk Assessment for the site. Paragraph 109 of the National Planning Policy Framework (the Framework) requires that new development should be prevented from being put at unacceptable risk from land instability and Paragraphs 120 and 121 seek to ensure that the site is suitable for development taking into account ground conditions and land instability. I note that a Coal Mining Risk Assessment was prepared in respect of the development of the adjacent land, which included part of the current appeal site. The Council consider that the potential for ground instability could be addressed by way of a planning condition requiring an intrusive investigation of the appeal site. Whilst this is not an ideal approach, from the content of the previous Risk Assessment, I am satisfied that it is unlikely that there would be fundamental land instability issues that would prevent the development of the site.
20. There is no substantive evidence before me in respect of flooding at or near the site. I also note that the Highway Authority have not raised concerns in respect of the proposal and from what I saw on my site visit, I am satisfied that a safe access to the appeal site from the highway can be achieved.
21. The validity of the planning permission for the development to the west of the appeal site has also been questioned. However, I do not have full details of this proposal before me, and in any event, this would not have led me to a different conclusion on the main issue.

Conclusion

22. Paragraph 49 of the Framework requires that housing applications should be considered in the context of the presumption in favour of sustainable development. It is common ground between the parties that the Council cannot demonstrate a five year supply of deliverable housing land and therefore the relevant policies for the supply of housing in the development plan cannot be considered up to date.
23. It is recognised that the proposed dwelling is not in an isolated location and is reasonably well located in terms of access to shops, services and facilities. There would be a small economic benefit arising from the investment in carrying out the development and a small social benefit in terms of adding to the housing supply in the area. Nonetheless, I have found that the proposed development would cause harm to the character and appearance of the area and the surrounding landscape. A single new dwelling would not make a significant contribution to increasing housing supply in the area and the substantial and lasting harm that would be caused to the landscape would significantly and demonstrably outweigh the small scale benefits resulting from the development. Consequently, overall, the development would not represent sustainable development as set out in the Framework.
24. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR