

Appeal Decision

Site visit made on 21 February 2017

by Nicholas Taylor BA(Hons) MRTPI

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

Decision date: 18th April 2017

Appeal Ref: APP/H0928/W/16/3162642

Land at Pea Foot - adjacent 'River Bend', Culgaith, Penrith, Cumbria

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Bates against the decision of Eden District Council.
 - The application Ref 16/0697, dated 25 July 2016, was refused by notice dated 27 September 2016.
 - The development proposed is residential development (two dwellings).
-

Decision

1. The appeal is allowed and planning permission is granted for residential development (two dwellings) at Land at Pea Foot - adjacent 'River Bend', Culgaith, Penrith, Cumbria in accordance with the terms of the application, Ref 16/0697, dated 25 July 2016, and the plans submitted with it, subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. The application was submitted in outline, with all matters except the means of access reserved for future determination. I have dealt with the appeal on that basis and have treated the submitted drawings which show how the site would be developed, for two, linked, single storey dwellings, as indicative.

Main Issue

3. The main issue in this case is the effect of the proposal on the area's character and appearance, having regard to national and local policies concerning dwellings in rural areas.

Reasons

4. The appeal site comprises part of a field on the edge of a settlement which is referred to as Pea Foot and is within the sphere of the sizeable village of Culgaith. The wider area is rural in character.
 5. The Council accepts that the supply of available housing land in the District is less than five years and has not disputed the appellant's statement that it currently stands at 3.3 years. Paragraph 49 of the *National Planning Policy Framework* (the Framework) states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five year supply of deliverable housing sites.
-

6. The Council refers in particular to several policies in the *Eden Core Strategy* (CS). Policy CS1 sets out varied sustainable development principles. Clause 2 of the policy provides for a sequential approach to the location of development, with a low preference for undeveloped land outside settlements which is well located in terms of services and infrastructure. Policies CS2 and CS7 also, among other things, reflect this sequential approach in terms of, respectively, locational strategy and principles for housing. Policy CS2 identifies Culgaith as a Local Service Centre. Consequently, elements of all three policies have the effect of constraining the supply of housing land and so, for the purposes of this appeal, should be regarded as relevant policies for the supply of housing.
7. Although the Council has not done so, the appellant has referred me to comparable policies in the emerging *Final Draft Submission Local Plan* (SLP). Of particular relevance, Policy LS1 carries forward the categorisation of Culgaith as a Key Hub settlement. The SLP is at an advanced stage of examination and thus may be afforded due weight. However, paragraph 49 of the Framework also applies to the emerging plan.
8. Although the relevant CS and SLP policies are not up to date in certain respects, this does not mean that they no longer apply. Sustainable development principles also underpin the Framework. It establishes three dimensions to sustainable development: economic, social and environmental. Having regard to the severe shortfall in housing land supply, but recognising their foundation in the principles of sustainable development, I attach limited weight to CS Policies CS1, CS2 and CS7 and to SLP Policy LS1 in respect of constraining the location of housing development. But clearly, they carry much less weight than they would if there were a five year supply of housing sites.
9. Paragraph 55 of the Framework says that, to promote sustainable development, housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. It gives the example of development in one village supporting services in a nearby village where there are groups of smaller settlements. However, it goes on to say that new, isolated homes in the countryside should be avoided unless there are special circumstances.
10. Whilst it contains a sizeable commercial site, in terms of housing, Pea Foot must traditionally have been a small settlement. However, in recent years it has been considerably expanded by the Otters Holt development, which will comprise 65 dwellings when complete. Pea Foot is only some 200 metres, but physically separated by a steep hillside, from the main, larger part of the village of Culgaith. Whilst there does not appear to be any services in Pea Foot itself, the Council has stated, in the local plan-making context, that Culgaith possesses a primary school, pub, village hall, church and shop, together with a garden centre and restaurant. This indicates that it considers the somewhat dispersed elements of the overall village to comprise the Local Service Centre or Key Hub. Thus, Pea Foot can be seen as a sub-settlement of Culgaith. The circumstances echo the Framework's description of a group of settlements where development in one would support services in the other. I have not been given any evidence of a numerical policy limit on new housing development within Culgaith as a whole.
11. The development plan does not establish firm settlement boundaries. The Council argues that the appeal site is clearly separated from the settlement of

Pea Foot by an adopted road and a narrow track. An Inspector, dismissing an appeal¹ proposing residential development on the appeal site in 1996, opined that, with the then nascent Otters Holt scheme, Pea Foot would acquire the status of a settlement. He found that the appeal site was not within Pea Foot but within the open countryside surrounding the settlement, creating a "most undesirable and incongruous extension of development into the attractive rural area north of Pea Foot", relating unsatisfactorily to the existing development to the south.

12. I partly agree with the previous Inspector's assessment, in that development of the appeal site would represent an expansion of Pea Foot beyond its current, de facto, edge. However, the site is, in practical terms, adjacent to the current edge of development, being separated by only the narrow track leading to the commercial site. This particular collection of large and small buildings extends considerably further than the appeal site from the core of the settlement. Today, the road linking Pea Foot to the main part of Culgaith is fairly wide, with a pavement on one side and street lighting, exerting a modest urbanising influence which may not have been apparent in 1996. Although paragraph 55 of the Framework does not offer a precise definition of "isolated", I consider that the term does not apply to the appeal site.
13. The sloping hillside, at the bottom of which the appeal site is located, enjoys no formal designation as a protected landscape but it provides an attractive prospect over the wider countryside, particularly when descending the hill from Culgaith. However, mindful that this is an outline application, with appearance, layout, scale and landscaping as reserved matters, I consider that there would be potential to design a pair of dwellings in such a way, utilising the site's characteristics, that visual impact on the countryside could be mitigated. Situated at the point where the road bends away from Pea Foot, appropriately designed development could punctuate and enclose the view from within the settlement without unduly dominating it. Consequently, in principle, as an outline proposal, the appeal scheme would not harm the landscape quality of the area.
14. In the previous appeal, the Inspector was also concerned that the proposal would create a dangerous precedent since, without any natural boundaries to the north and west, he considered that it would be difficult to refuse further residential extension into the wider area. Notwithstanding the principle that each case should be determined on its own merits, I concur that allowing incremental outward expansion of a rural settlement, that is clearly not infill, could in certain circumstances strengthen the case for further incremental expansion onto the next adjacent site. However, in this case, development higher up the slope or further from the road would raise more challenging questions in terms of relationship to the settlement form and visual impact. Consequently, the risk of setting an undesirable precedent is a concern but not an overriding one.
15. All in all, therefore, in the current appeal, I consider that the proposal would represent development just beyond the current edge of the settlement. The physical harm caused to the character and appearance of the settlement and the countryside location would, overall, be low. Nevertheless, the proposal would not fully comply with the relevant provisions of the CS and SLP policies

¹ PINS reference T/APP/H0928/A/96/263307/P4

referred to above and would have a small negative impact on the environmental strand of sustainable development.

16. Balanced against the harm and conflict with the development plan is the contribution to the supply of housing. Although modest in number, it is rendered more significant set against the rural context and the considerable shortfall in housing land supply. The scheme would also provide modest support to the local economy, in terms of the viability of local services and temporary employment from construction. These impacts amount to positive benefits in terms of the economic and social strands of sustainable development, in the context of the Local Service Centre / Key Hub designation of Culgaith in CS Policy CS2 and SLP Policy LP1, together with paragraph 55 of the Framework. In combination, I attach moderate weight to these benefits.
17. In the planning balance, I conclude that there is a degree of both conflict and compliance with the development plan as a whole and with the three strands of sustainable development. In view of paragraph 49 of the Framework, the reduced weight which I afford to the development plan policies for the supply of housing means that, overall, the adverse impacts I have identified do not significantly and demonstrably outweigh the social and economic benefits. Consequently, the proposal must be considered in the context of paragraph 14 of the Framework, indicating that it would represent sustainable development as defined therein. Material considerations in this case indicate that planning permission should be granted for development that is not fully in accordance with the development plan.

Other Matters

18. The acceptability of the means of access to the site is before me for determination. Following clarification of the submitted plans, the Highways Authority and the Council have not raised objections to this, subject to suggested conditions. A neighbour is concerned that the combination of the steep hill and the proximity to the adjacent separate access to the commercial premises would cause harm to highway safety. However, given the Highway Authority's views, the separation of the proposed access from the lane, the adequate sight lines and my own observations on site, I am satisfied that, with the imposition of conditions, the proposed access would be satisfactory.
19. A neighbour also raises, in addition to concerns already addressed in my reasoning, the potential impact of the development on wildlife. The site is a field, separated from nearby woodland. I have not been given any strong evidence to indicate that there would be likely to be any appreciable harm to nature conservation. I am also satisfied that, given the distance, topography and vegetation, any harmful overlooking of the garden of 'River Bend' could be avoided through approval of reserved matters. Noise and disturbance from construction would be very unlikely to be unduly long-lasting or harmful from a development the size of that proposed.

Conditions

20. I have considered, and amended where necessary, the Council's suggested conditions in the light of national policy and guidance² and for clarity and succinctness. I have imposed the usual commencement conditions, including

² The Framework paragraphs 203 and 206 and *Planning Practice Guidance*: Use of Conditions.

specification of reserved matters, applicable to outline permissions. Conditions regarding drainage of the site, including a requirement for submission of a scheme of surface water drainage before occupation of the dwellings, are necessary in order to ensure that sustainable drainage is achieved. My condition expands on that suggested by the Council.

21. Whilst it has been demonstrated that, in principle, safe access to the site can be provided, the Council has suggested numerous separate conditions, which partially overlap, relating to detailed access arrangements. The submitted plans show that the required visibility splays and sight lines would be substantially within the highway and outside the boundary of the site. Moreover, precise details of the location and design of parking and turning areas within the site can form part of the submission of the reserved matter of layout. With those things in mind, and for simplicity, I have subsumed access matters into one pre-commencement condition, requiring submission of a detailed scheme.

Conclusion

22. For the reasons set out above, the appeal should be allowed.

Nicholas Taylor

INSPECTOR

Schedule of Conditions:

- 1) Details of the appearance, landscaping (including boundary treatment), layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Foul and surface water shall be drained on separate systems.
- 5) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. In accordance with the hierarchy of drainage options set out in *Planning Practice Guidance*, before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) No development shall take place until a detailed scheme for the design and construction of the vehicular access serving the development, including its drainage, width, gradient and position of any gates, shall have been submitted to and approved in writing by the local planning authority. The scheme shall provide as a minimum for the visibility splays and sight lines shown on drawing number 115-127-03 Rev F and no development thereafter within the site shall be permitted to obstruct them. The scheme shall also specify that the access, together with adequate parking and turning space within the site for construction vehicles, shall be constructed before construction of the remainder of the development commences. No dwelling shall be occupied until the access, parking and turning space has been constructed in accordance with the approved details.

End of Schedule