
Appeal Decision

Site visit made on 12 December 2017

by Katie McDonald MSc MRTPI

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

Decision date: 12 January 2018

Appeal Ref: APP/H0928/W/17/3183181

Land opposite Ivy House, Ousby CA10 1QA

- 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 Boulton against the decision of Eden District Council.
 - The application Ref 17/0432, dated 25 May 2017, was refused by notice dated 21 August 2017.
 - The development proposed was originally described as *residential development for up to five dwellings with all matters reserved*.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development for up to five dwellings with all matters reserved at land opposite Ivy House, Ousby CA10 1QA in accordance with the terms of the application, Ref 17/0432, dated 25 May 2017, subject to the following conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Boulton against Eden District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has changed. Whilst I have seen the letter sent to the appellant from the Council, neither of the main parties has provided written confirmation that a revised description of development was actually agreed. Accordingly, I have used the one given on the original application.
4. The application is in outline with all matters to be reserved for later approval and I have dealt with the appeal on that basis. An illustrative site plan has been submitted with the proposal and I have had regard to it in so far as it is relevant to my consideration of the principle of the proposal at the site.

Main Issues

5. I consider the main issues to be;
 - i) The effect of the proposal on the character and appearance of the area; and
 - ii) Whether the proposed development would be accessible via sustainable modes of transport.

Reasons

Character and appearance

6. Situated on part of a triangle of land surrounded by rural roads in the small village of Ousby, the proposal is for a residential development of up to 5 houses. The land is undeveloped, previously agricultural and sits next to a development site under construction for 6 dwellings. The application was in outline form, with all matters reserved.
7. Policy CS2 of the Core Strategy Development Plan Document (March 2010) (CS) identifies Ousby as a Local Service Centre, detailing that small scale development to sustain local services, support rural businesses and meet local needs, including housing would be appropriate. The Council raise no conflict with this policy, and I have no reasons to disagree.
8. The proposal would introduce built development onto what is currently an undeveloped, relatively open gap of land. However, the site is located within a triangle of land that, with the exception of the village play area and this site, is developed on all 3 sides by modern and traditional dwellings and their gardens.
9. Thus, whilst this proposal is outline only, and matters regarding the actual physical effect could not be assessed at this stage; the site is centrally located within the village, and the introduction of housing development would be in context with this particular setting. Thus, the change to the landscape, character and appearance of the village would not be harmful or detrimental.
10. The density of the site would be low, yet this would be in context with the surrounding residential houses and the adjacent development under construction. Policy CS8 of the CS sets out that lower densities may be considered where there is a need to preserve the character of the area, and in this village context, the density would be appropriate.
11. Consequently, the effect of the proposal on the character and appearance of the area would be acceptable and I find no conflict with Policies CS1, CS3, CS8 or CS16 of the CS. These policies require developments to be sustainable, reflecting and enhancing landscape character and to make efficient use of land. I also note, that whilst not referenced in the decision notice, the site is located in a Landscape of County Importance by the saved Policy NE3 of the Eden Local Plan (December 1996). Based on my findings above, the proposal would also be in compliance with Policy NE3, which seeks to have due regard to the distinctive character of the landscape.

Sustainable modes of transport

12. The site is located in a rural setting and it would not be unreasonable to assume that access by non-car means is limited. However, based on undisputed submissions, there is a bus that operates 4 days a week, and a rail station is reasonably close at around 3.5 miles away. Furthermore, access by bicycles would not be inconceivable. Thus whilst access via sustainable modes of transport would be less than that in a more densely populated area, I do not find that the site is inaccessible via non-car means.
13. Additionally, the village is served by a public house and features a play area, providing some services close by. Consequently, I find no conflict with Policy

CS1 of the CS that requires, amongst other things, development is located in order to minimise the need to travel.

Other Matters

Emerging Local Plan

14. Draft Policy LS1 of the Eden Local Plan – 2014-2032 (LP) is referred to by the Council. This policy would require the development to meet local housing demand, and would also designate Ousby as a 'Small Village and Hamlet'. As the proposal is for general market housing, there would be a conflict in this regard.
15. The Council also identify the site as now being of 'limited sustainability' due to its downgraded designation from a Local Service Centre.
16. The draft LP is at an advanced stage and I note that the Examining Inspector is not seeking any further changes to this policy. Nevertheless, it is not adopted development plan policy, and this limits the weight it can be attributed. Yet full weight can be given to the compliance I have found with the adopted development plan. In terms of the planning balance, the conflict with draft Policy LS1 would not be sufficient to outweigh the development's compliance with adopted policy.
17. Additionally, I have found the site to be sufficiently accessible via non-car means, and its change in status from a Local Service Centre to a Small Village and Hamlet would not result in the site suddenly becoming a less accessible location.
18. Furthermore, whilst I recognise that the adoption of the draft LP would result in the area having a 6.41 year supply; the current supply of housing is less than 5 years. Therefore, the delivery of up to 5 houses, in the context of the considerable current shortage of the housing supply at 3.35 years, would be a benefit.

Public objections

19. I have had careful regard to the numerous submissions by interested persons.
20. The appeal decision referred to was determined in 2005. National and local policy has changed in the interim, and the adjacent site has been developed. Thus I find the previous decision has little bearing on this proposal.
21. I acknowledge that the draft LP has yet to be adopted, and earlier adoption may have been anticipated. However, I am duty bound to consider the proposal against the adopted development plan and any other material considerations. This is what I have done here.
22. Although there may be an identified need; there is no development plan requirement to provide affordable housing in this particular instance.
23. Details relating to drainage, lighting or ecological matters are not before me. This proposal is an outline application and such matters would be assessed in a subsequent reserved matters application. However, I have had regard to the lack of objection by the Highways Authority, the Local Lead Flood Risk Authority and United Utilities and applied conditions as necessary.

24. No harm has been demonstrated in relation to the effect upon neighbouring living conditions from noise or light. Based upon the evidence presented, the land ownership is separate to that of the site under construction and could not be treated as piecemeal development of one planning unit in order to avoid planning obligations.
25. The length of time it takes to sell a property and the condition of the roads are not matters that are material to this appeal.

Conditions

26. I will attach a condition ensuring the development is carried out in accordance with the approved plans as this provides certainty. A condition relating to the parking of site operatives during construction is required to ensure that there is no inconvenience caused to road users. A condition relating to surface water drainage is necessary to ensure the proposal manages the risk of flooding and pollution. Conditions 5 and 6 are required to be pre-commencement conditions as it is fundamental to have the details approved prior to the development commencing on site.
27. I have not imposed a condition relating to the specific access details as this is already required by condition 1. I have also not included the conditions which require the access drive to be surfaced in specific materials or the access and turning requirements. These are also matters that would be subject to the reserved matters application.
28. I have found it unnecessary to include the condition requiring the reserved matters to propose no more than 5 dwellings as this is detailed in the description of development.
29. Finally, I have not imposed the condition requiring the development to be occupied by persons with a local connection, as the proposal is acceptable without this requirement.

Conclusion

30. For the reasons above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, 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) The development hereby permitted shall be carried out in accordance with the approved plans being Location Plan and Block Plan.
- 5) No development shall commence until a plan that details adequate land for the parking of vehicles engaged in construction operations associated with the development, has been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to construction of the development, and the land shall be used for or be kept available for the parking of vehicles engaged in construction operations at all times until the completion of the construction works.
- 6) 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. 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.