
Appeal Decision

Site visit made on 11 December 2017

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

an Inspector appointed by the Secretary of State

Decision date: 5 March 2018

Appeal Ref: APP/X1355/W/17/3181243

Land to the north and east of Startforth Moritt Memorial School, road through High Startforth, Startforth DL12 9AR

- 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 Startforth Barnard Castle Ltd against the decision of Durham County Council.
 - The application Ref DM/16/02643/OUT, dated 12 August 2016, was refused by notice dated 23 March 2017.
 - The development proposed is residential development on 2.4 hectares of land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline including consideration of access, with all other matters reserved. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the plans as being illustrative.
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 not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description has been agreed and accordingly, I have used the one given on the original application, albeit omitting superfluous descriptions of the application type and the site's location.

Main Issues

4. The main issues raised by this appeal are the effect the development would have on the character and appearance of the area, on the setting of designated heritage assets, on highway safety and whether the development would make appropriate provision for affordable housing and open space.

Reasons

Character and appearance

5. The appeal site is an area of grassland of irregular shape and open pastoral quality which lies between 'Low' and 'High' Startforth. High Startforth has a dispersed layout of clusters of buildings interspersed with gaps and mature trees running along an unnamed road. It has the character of a small hamlet or village within a countryside setting of which the appeal site forms a part.

6. This character and appearance is distinct from that of the more consolidated and built up Low Startforth which bounds the site to the north, where older buildings are largely surrounded by post war housing of a suburban character of a more expansive scale. The site presently contributes to the distinct physical and visual gap between these settlements, even where buildings are at their closest, and contributes to the countryside setting of both. The site also comprises an attractive area of undeveloped countryside which makes a positive contribution in its own right to the character and appearance of the area along with the open rural landscape which extends west opposite the site.
7. The indicative plans show development occupying two distinct areas of the site, the substantive part would be to the north and a smaller area set to the east of the Startforth Moritt Memorial School with proposed public open space between them. This open space could provide a limited physical separation between existing buildings in High Startforth and proposed development.
8. However, given the topography of the site and extent of development proposed, in practice such a gap would only be likely to be perceptible as such from within the open space and potentially from limited areas of the school grounds, as development on the northern part of the site beyond the indicative open space area would be readily appreciable from within High Startforth. Even with bungalows on part of the site and landscaping maturing over time, this would do little to preserve the separateness of the two settlements with the result that they would effectively coalesce. Development alongside the road at the west end of the site would also appreciably erode a gap between buildings presently formed by open landscape on both sides of the road.
9. The distinction between the two settlements would be largely lost with the site's development, significantly eroding and undermining the character of High Startforth which would largely appear as part of a continuation of the existing built up area to the north.
10. The appellant's Landscape and Visual Impact Assessment (LVIA) considers that the site represents a relic of open, pastoral land between the two settlements, and amongst other factors, finds the site in terms of landscape condition, scenic quality and perceptual aspects as 'moderate-high'.
11. A clear southern 'edge' to Low Startforth alongside the appeal site identified in the LVIA is formed by the line of buildings with gardens, which include a dene with a beck running through them. This edge would be lost with the development of the site. However, the LVIA considers the effect on the landscape character itself to be very restricted and moderate at most, in part due to the relatively enclosed nature of the site. Nevertheless, this is partly due to the site's relationship with its built context and the positive characteristics of the site are derived from more than just its role within a larger rural landscape.
12. The indicative layout has attempted to maintain views of distinctive landmarks in Barnard Castle. However, these views across the site are only one positive component of its, and the wider area's, character and their retention would not alter the adverse effects arising from the effective coalescence of High and Low Startforth or the loss of attractive landscape.
13. In terms of visual effects the LVIA considers that these would be 'moderate-substantial adverse', although effects may be reduced through mitigation, it

notes that, other than from existing dwellings surrounding the site, these effects would only be perceived for short sections of the roads adjacent to the site. However, these are the two main public interfaces with the site and the effects of the development would be clearly seen from them and they are not, in themselves, particularly narrow or constrained gaps. Whilst the proposal need not result in the loss of particular features such as hedges and trees, this would not affect the substantial loss of the landscape of the site itself.

14. The development would consequently cause considerable harm to the character and appearance of the area and would unreasonably harm the rural landscape. It would therefore be contrary to saved Teesdale Local Plan, 2002 (TLP) Policy GD1. The area is within an Area of High Landscape Value (AHLV) as identified in the TLP and as the development would detract from its special character it would be contrary to TLP Policy ENV3.
15. Both parties consider that saved TLP Policy ENV3 is only partially consistent with the National Planning Policy Framework (the Framework). However the Council consider that the site is a valued landscape which paragraph 109 of the Framework seeks to protect and enhance and that more recent landscape studies support this. The appellant disagrees, noting that an AHLV is not a national designation and points to the Council's decision to grant planning permission for a housing development on land to the east of Her Majesty's Young Offender Institution Deerbolt (Deerbolt) which lies to the north of the site on the other side of Low Startforth. The Council considered in that case that although that site was within the AHLV it was not a valued landscape considered in isolation due to the character of the site.
16. However, based on the information before me the east of Deerbolt site is materially different from the appeal site in a number of respects, including its relationship to existing built up areas and a history including former military functions and buildings. Similarly, a housing site to the south of Deerbolt also has a very different existing built context to that of the appeal site. Moreover, the appeal site is part of a landscape that has value both in its intrinsic rural character and in its current setting and separating functions it performs in relation to settlements, attributes that distinguish it from more 'ordinary' areas of countryside.
17. Both the Council and the appellant have referred to appeal decisions¹ elsewhere in the County where Inspector's findings about whether particular landscapes in those cases could be considered as valued ones in the Framework's terms support their respective views. These differences serve to show that judgments have been based on the particular circumstances of the proposals. In doing so in this case, the evidence, circumstances and my observations lead me to consider that the appeal site can be reasonably be regarded as a valued landscape in the Framework's terms. The proposal would consequently fail to accord with the Framework's approach of protecting such landscapes and, whilst only partly consistent with it, saved TLP Policy ENV3 carries weight in this regard.

Designated heritage assets

18. Low Startforth Hall, a grade II listed building, lies to the north of the site. It has C17 origins with C18 and C19 alterations and extensions. Its south front

¹ APP/X1355/W/16/3160472 and APP/X1355/W/17/3172174.

faces a garden, beyond which lies the appeal site. There are notably fewer trees along the banks of the beck along its frontage with the appeal site than other gardens to east and west. This has the effect that there is a clear and open intervisibility between the Hall, its garden and the appeal site enabling an appreciation the building to be experienced within its rural context. The listing description notes an inscription relating to its situation in relation to landscape features. Whilst its age, architecture, materials, architectural features and situation in relation to its garden contribute to its significance, the appeal site beyond also makes a contribution to this significance as part of a wider landscape setting of the south front which is appreciable in both directions.

19. Startforth House East and West lie to the south of the appeal site and is a grade II listed building with early C18 origins. Its significance is partly derived from its age, architecture, materials and historic uses. Intervening buildings and gardens mean that the appeal site makes a relatively limited contribution to the significance it derives from its wider setting albeit that its rural, village situation is a component of that significance. Similarly the Victorian grade II listed Church of Holy Trinity derives significance in part from its rural, village setting, in particular as a result of its detached relationship to more closely grouped buildings in the village. Intervening fields and trees between the church and its grave yard means that the appeal site makes a more limited contribution to its wider setting and hence significance.
20. The development of much of the site, and particularly that part directly in front of it, would have an adverse effect on the setting of Low Startforth Hall through the effective loss of the landscape setting which it presently has beyond its garden. Bearing in mind it is a reserved matter, landscaping over time would only go a limited way to mitigating this adverse effect, largely in the form of partial screening. It would not overcome the loss the present open landscape setting would have on the significance of Low Startforth Hall. The effect on the significance of Startforth House East and West and the Church of Holy Trinity would be much less marked given their relative situations but would nevertheless be of a moderately adverse effect on the significance of those designated heritage assets that they derive from their rural village settings which would be partly eroded.
21. An 1857 Ordnance Survey map in the appellant's Heritage Statement shows the site as part of an area of parkland. There is no clear indication as to which house it was associated with. The LVIA notes that there is the suggestion of parkland trees on old maps, possibly associated with Low Startforth Hall. The appellant's Archaeological report refers to records suggesting that this area was part of the park of Startforth Hall (a listed building to the south of the village) and the Heritage Statement considers it may have been part of a private garden once connected with High Startforth.
22. Whilst there is no conclusive evidence before me as to which historic house the site may have been associated, it appears most likely that its role at some time would have been as part of a landscape within the grounds of a designated heritage asset. Whilst my decision does not turn on this aspect, it adds weight to my findings of harm to the significance that designated heritage assets derive from their settings, excepting the Church of Holy Trinity, as well as the value which can be attributed to as landscape explored above.

23. In having special regard to the desirability of preserving the listed buildings or their settings, I consider that the development would harm that part of Low Startforth Hall's significance it derives from its setting through the change of the open, rural area to the south within which it can be experienced to a largely built up and enclosing one. This effect would also harm the significance of Startforth House East and West and the Church of Holy Trinity, albeit to a lesser extent. This harm is something to which I have given considerable importance and weight. As such the proposal would be contrary to saved TLP Policies GD1 and BENV1.
24. Barnard Castle Conservation Area derives some of its significance from an architecturally and historically rich townscape focused on a medieval street pattern, punctuated by landmarks such as the Castle, St Mary's Church and the Bowes Museum. A degree of its significance is obtained from its wider rural setting to the south and west, a component of which is the mixture of built up and rural aspects in the vicinity of High Startforth. The boundary of the Area lies not far from the appeal site to the east although the steep topography of the river valley at this point mean that the appeal site is only discernible from limited vantage points somewhat farther within the Conservation Area.
25. The development would result in the effective loss of an area of countryside to housing, extending the built up area of Low Startforth as apparent from within the Conservation Area. However, the component of setting lost would be very limited in scale in the context of the Conservation Area's overall setting and considering the extent of built up areas within the current south west aspect of this setting. There is the potential to maintain some views of key Conservation Area landmarks across the site. In paying special attention to preserving or enhancing the Conservation Area, I consider that the change would not materially harm the significance of the Conservation Area and would preserve its character and appearance, avoiding conflict with saved TLP Policy BENV4.

Highway safety

26. The site would be served by two vehicular access points. One to the west joining Boldron Lane is shown on the indicative plans serving the majority of proposed housing development and one to the south onto the unclassified road running through High Startforth would serve a more modest area of development of approximately five dwellings. The Council's concerns focus on the existing junction of that unclassified road where it meets the B6277 to the east, rather than the access points into and out of the appeal site themselves. At the junction the B6277 is at a gradient and curved alignment, concave to the junction. The joining road is also at a gradient dropping down relatively steeply immediately before it joins the B6277 at an acute angle.
27. Whilst the junction has constraints, the evidence does not suggest that it has a particularly poor safety record, with the one recorded accident apparently not entirely attributable to its configuration. The visibility to the south is limited to a degree by the geometry of the B6277 curving inwards to the south but I am conscious that Manual for Streets 2 advises that "unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem". Based on the existing and projected vehicle movements using the B6277 and the adjoining road identified in the appellant's Transport Statement and Highways Proof these circumstances would be unlikely to lead to any severe effects on Highway safety.

28. Similarly, even if the Council are correct in assuming that the majority of movements on foot towards Barnard Castle would cross the B6277 near the junction, they would be likely to use the adjacent steps. Pedestrians waiting to cross would be clearly seen by, and clearly see themselves, vehicles using the B6277 and turning onto it from the unclassified road.
29. The appellant's Highways Proof shows that the width of the unclassified road varies but that only a very short stretch (2m) would be just below 4.1m wide, a width Manual for Streets illustrates two cars or larger vehicles and cycles being able to pass one another. Not only is this for a very limited length but it is on a relatively straight section such that vehicles travelling in either direction would have a good view ahead and be able to safely gauge whether to continue or let traffic coming in the opposite direction pass should they find themselves converging on that narrower section.
30. Similarly, there would be good views of other road users including any pedestrians walking on the carriage way to the east of the narrow point where the footway which runs from the settlement merges with the carriageway. Combined with the low levels of additional vehicle traffic anticipated, it is very unlikely that any highway users would be harmed as a result of the limited additional vehicle movements likely to be generated by the development.
31. The development would consequently avoid conflict with the access and transport requirements of saved TLP Policy GD1 in this respect. It would also not conflict with the Framework's requirements that safe and suitable access to the site for all can be achieved and that development should only be prevented or refused on transport grounds where residual cumulative impacts of development are severe.

Affordable housing and open space

32. The appellants have submitted two counterpart Unilateral Undertakings which make provision for at least 15% of dwellings to be affordable and to make a contribution to open space as well as provide on-site public open space (with contingency arrangements). I consider that the measures in the Undertakings would be necessary, related directly to the development and fairly related to it in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the equivalent tests for planning obligations set out in the Framework. The Council acknowledges that they would provide the required affordable housing and open space contributions and I consider that a conflict with saved TLP Policies H1A and H14 in these respects would consequently be avoided.
33. There would, however, appear to be some flaws in the drafting of the undertakings relating to the unilateral nature of the obligations, the transfer of interests to another party and the use of counterpart obligations. In the event that the appeal were to be allowed the matters would appear to be capable of being remedied. In these circumstances I have taken the potential benefits into account. Nevertheless, as I am dismissing the appeal for other reasons, I have not pursued this matter further with the main parties.

Designated heritage asset and overall planning balance

34. I have found that the development would result in less than substantial harm to the significance of designated heritage assets. The Framework requires that

great weight is given to designated heritage assets' conservation. In this case that harm would be less than substantial in the Framework's terms, although that does not mean that the harm is not an important consideration and this harm carries considerable weight. In such circumstances the Framework requires such less than substantial harm to be weighed against the public benefits of the proposal.

35. The public benefits of the proposal would include the provision of new homes along with some economic benefits arising through their construction and subsequent support of services in the wider vicinity by future occupants. Subject to my caveat above, the provision of up to six affordable homes would be an additional social benefit as would the provision of, and contribution to, public open space. Together, these public benefits carry substantial weight.
36. Nevertheless, the harm to the significance of designated heritage assets, in particular to that which Low Startforth Hall derives from its setting, would be considerable. In giving great weight to the conservation of designated heritage assets, and acknowledging that the harm to other listed buildings' significance would be more moderate, this harm would not be outweighed by those public benefits substantial though they would be.
37. The Council advise that whilst they consider that they could establish a five year supply of deliverable housing sites this depends on using a standard methodology proposed in a Government consultation document². They accept that as this is a draft document they are yet to formalise its position on the issue of 5 year land supply. Taking this and recent appeal decisions³ brought to my attention by the appellant into account, the appeal must be considered in light of the Framework's approach at paragraphs 49 and consequently 14.
38. However, the lack of a demonstrable five year supply of housing land does not automatically lead to a grant of planning permission. I have found that specific policies in the Framework indicate that development should be restricted, in particular those concerned with conserving and enhancing the natural and historic environment. These are circumstances where the second limb of the fourth bullet point of Framework paragraph 14 explains that its presumption in favour of sustainable development at does not apply.
39. The material considerations of the development's benefits, set out above, would not outweigh the considerable harm to the character and appearance of the area and to designated heritage assets which would be contrary to development plan policies.

Conclusion

40. For the reasons set out above, and having had regard to all other matters raised, the development would harm the character and appearance of the area and the significance of designated heritage assets, contrary to the development plan and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

² Planning for the right homes in the right places: consultation proposals, Department for Communities and Local Government, 2017.

³ APP/X1355/W/17/3174389 and APP/X1355/W/16/3165490.