
Appeal Decision

Site visit made on 17 April 2018

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2018

Appeal Ref: APP/H0928/W/18/3194233

Land to the south of Nab Barn, South Dykes, Great Salkeld, Penrith, Cumbria, CA11 9LL

- 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 Robinson against the decision of Eden District Council.
 - The application Ref: 17/0806, dated 18 September 2017, was refused by notice dated 13 November 2017.
 - The development proposed is a residential development.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The development proposal was submitted in outline with all matters reserved for future approval. Although a drawing was submitted which shows the appeal site developed as three plots, siting and layout were reserved for future approval and so I have treated this as illustrative only. The planning application form states that the proposal is for three dwellings and I have had regard to this, and determined the appeal on this basis.

Main Issue

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

Reasons

4. In addition to the Policies in the adopted Eden District Council Core Strategy 2010 (Core Strategy), the reasons for refusal refer to policies in the emerging Eden District Local Plan (EDLP), in particular Draft Policies LS1 and DEV5. The EDLP has been examined and consultation has taken place on further modifications following the examination. Although it has not yet been adopted, the emerging plan is at an advanced stage of preparation and, therefore, moderate weight can be given to Draft Policies LS1 and DEV5.
5. Core Strategy Policy CS2 of the sets out a locational strategy that seeks to direct development to certain identified service centres, whilst in the smaller villages, hamlets and open countryside open countryside development is expected to be limited to meeting an identified need. South Dykes is not identified within Policy CS2 as one of the locations where new development will

- be focused. Policy CS9 of the Core Strategy addresses new housing development in rural areas outside of the key and local service centres and sets out various criteria that to be applied. These include the expectation that the design of the proposed development respects the character and quality of the natural and historic environment.
6. Policy LS1 of the EDLP restates the locational strategy set out in Core Strategy policy CS2 and identifies South Dykes as within the category of smaller villages and hamlets where development on an appropriate scale will be permitted but where it delivers new housing on greenfield sites, that this would be to meet local demand only. Policy LS1 goes on to say that in these smaller settlements that new development will be restricted to infill sites or rounding off development.
 7. Policy CS3 of the Core Strategy seeks to ensure that new development respects and reinforces the character of the wider landscape and the special character and sense of place of villages and hamlets, whilst Policy CS18 expects new development, among other matters, to demonstrate a clear understanding of the form and character of the built and natural environment, and to protect the rural landscape. This is echoed in Draft Policy DEV5 of the EDLP.
 8. South Dykes is a small, largely linear, settlement running along a minor road. It has a mixed architectural character with buildings in a range of ages and styles. A large complex of farm buildings is sited at the north end of the settlement and the remaining properties are residential.
 9. The similarly sized settlement of North Dykes is located approximately 1 km to the north of South Dykes and the larger village of Great Salkeld lies just to the north east. The surrounding landscape is primarily agricultural in character comprising small to medium sized fields bounded by stone walls. Outside of the settlements a number of groups of farm buildings are present. Small areas of woodland and individual trees on field boundaries are scattered through the landscape. The landform slopes to the south east towards the River Eden.
 10. The appeal site is located to the south of the settlement. It is roughly rectangular and approximately 0.19 hectares in area, located adjacent to the last house in the village on the east side of the road. It is part of a larger field that has been sub-divided by post and wire fences to create a number of smaller areas that are currently grassed. These fences create arbitrary boundaries that are unrelated to the historic field boundaries and the field pattern in the surrounding area, which are clearly marked by the characteristic stone walls that are widely used throughout the area.
 11. There is no definition in the relevant policies as to what constitutes infilling or rounding off development, although the Council state that the former is development which fills a modest gap between existing buildings within the settlement and the latter development which extends the edge of a settlement within a logical, defensible boundary. It is common ground between the parties that the proposed development would not be infill development.
 12. The appellant contends that the approval site would constitute rounding off of the village as the stone wall on the southern boundary of the appeal site would be a clearly definable boundary.

13. The Core Strategy does not define settlement boundaries. I saw when I visited site that the built form of the settlement is largely between the crossroads formed with Green Lane to the north and two properties at the south end of the village, which are roughly opposite each other. This results in the village, despite being linear, having a compact and well defined form. I also saw that the bungalow known as Three Trees is clearly orientated so that the principal elevation faces south with a gable elevation facing the road. Nab Barn on the east side of the road, adjacent to the appeal site, is less emphatic in its built form, having its principal entrance on the west elevation facing the highway, but with a greater number of windows on the south elevation. Nonetheless, the relative position of the two buildings is such that a clear edge to the built up area is apparent.
14. Whilst there are other settlements nearby, in addition to the farms in the surrounding area, the landform is such that there is limited intervisibility between these, the settlement of South Dykes, and the appeal site. The settlement, consequently, has the appearance of a coherent grouping of buildings surrounded by open countryside. The 30 miles per hour speed limit, for the village starts just to the south of Nab Barn, approximately one third of the way along the appeal site boundary, with the larger part of the site beyond this. Whilst I appreciate that the application of speed limits is not definitive in terms of a settlement boundary it is, nonetheless, indicative of the current built extent of the settlement.
15. Development of the appeal site would extend the built form of the settlement to the east side of road considerably beyond that on the west. This would be inconsistent with the present compact and well defined form of the settlement, and would appear as an incongruous extension of the built form into the open countryside beyond, following an arbitrary boundary to the east. Although the appellant suggests that the stone wall on the southern boundary of the appeal site forms a defensible boundary to the settlement, stone walls are the characteristic field boundary in this area and, as such, this argument could equally be applied to the two fields to the south of the appeal site and the field opposite, which are also enclosed by similar walls.
16. The Council's position is that a defensible boundary would be a landscape feature such as a road, wood, river, railway line or a significant rise or fall in the topography, which would prevent the further extension of development. In my view, this is a more credible definition and, consequently, I do not find the appellant's argument in this respect compelling.
17. Within this context, I do not consider that the proposed development would amount to rounding off of the settlement. It would, moreover, extend the current, compact, built form of the settlement into the open countryside beyond the village which would be harmful, both to the character of the village and to the character of the surrounding landscape, by disrupting the established pattern of well-defined agricultural fields around the village. I accept that the village and the surrounding countryside are not covered by any statutory designations to protect the countryside or the built environment. Nevertheless, these have their own distinctive local character and it is this that the development plan policies expect new development to have regard to. The erosion of the surrounding countryside and the expansion of the village in a manner that is inconsistent with its current extent and built form would cause

- harm to the character and appearance of the village, and to the surrounding landscape.
18. The proposed development would, therefore, conflict with the relevant requirements of Core Strategy Policies CS9 and CS18, which seek to ensure that new development has regard to, and demonstrates a clear understanding of, the form and character of the built and natural environment and protects the rural landscape.
 19. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
 20. The Council consider that the appeal site is a rural exception site and Core Strategy policy CS9 requires that on such sites 100% of the housing should be affordable. The proposed development is not for affordable housing. The EDLP is at an advanced stage of preparation and Policy LS1 takes a different approach to housing outside the identified key centres and service centres, expecting new housing on greenfield sites in such locations to meet local demand and need. The Council have advised that Policy LS1 is not subject to any unresolved objections and, consequently, I consider that moderate weight can be given to this policy. As a result, the fact that it is not providing 100% affordable housing as required by Core Strategy Policy CS9 is not fatal to the proposal.
 21. The National Planning Policy Framework (the Framework) is also a material consideration and Paragraph 49 requires that applications for new housing should be considered in the context of the presumption in favour of sustainable development.
 22. It is not in dispute that at this point in time the Council cannot demonstrate a deliverable five year supply of housing land. I have noted that the Council have stated that once the EDLP is adopted it will be in a position where it would have a 6.41 years housing land supply. Nonetheless, at this time the EDLP is not adopted and, consequently, the proposal must be considered in the context of paragraph 14 of the Framework.
 23. In addition towards making a contribution towards the supply of housing, there would be some economic benefits from the proposal in terms of investment in the construction of the houses and the associated construction jobs, and some additional spending in the local economy. The appellant also states that the proposal would allow himself and his family members to stay in the immediate area. The contribution that three houses would make to increasing housing supply would be modest and, due to the small scale of the development, the economic benefits would likewise not be substantial. There is no substantive evidence before me that, were the proposal not to proceed, the appellant and his family members would be unable to continue living in the local area.
 24. I have also noted that the Council have not raised concerns in respect of the effect of the proposal on the living conditions of adjoining occupiers or on highway safety, and from what I have read and from what I saw when I visited the site I have no reason to reach a different conclusion. Lack of harm is, however, not a benefit of the proposal.

25. Balanced against this, the proposal would, in my judgement, cause substantial and enduring harm to the character and appearance of the village, and the surrounding countryside contrary to Core Strategy Policy CS18. This harm would significantly and demonstrably outweigh the modest benefits of the proposal, and, consequently, the appeal must fail.
26. I conclude that the proposed development would cause harm to the character and appearance of the area and the surrounding countryside. It would be contrary to the relevant requirements of Policies CS9 and CS8 of the Core Strategy and Policies LS1 and DEV5 of the EDLP which when, taken together, seek to ensure that the countryside is protected and that new development has regard to its local context.

Conclusion

27. I have found that the proposed development would not comply with the relevant requirements of the development plan and no material considerations have been identified that would warrant making a decision other than in accordance with these policies.
28. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR