



Appeal Decision

Site visit made on 24 September 2018

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 26 October 2018

Appeal Ref: APP/H0928/W/18/3204421

Midtown Farm, Clifton, Nr Penrith CA10 2EE

- 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 John Carruthers against the decision of Eden District Council.
 - The application Ref 18/0018, dated 10 January 2018, was refused by notice dated 8 March 2018.
 - The development proposed is a new four bedroom detached dwelling on land to the rear of Midtown Farmhouse, Penrith.
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Decision

1. The appeal is allowed and planning permission is granted for a new four bedroom detached dwelling on land to the rear of Midtown Farmhouse, Clifton, Nr Penrith in accordance with the terms of the application, Ref 18/0018, dated 10 January 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. MTFC/ND/JC/FP/V2/01 Site Location Plan, Drawing No. MTFC/ND/JC/FP/03 - Proposed Site Plan, Drawing No. MTFC/ND/JC/FP/V2/05 - Ground Floor Plan, Drawing No. MTFC/ND/JC/FP/06 - First Floor Plan, Drawing No. MTFC/ND/JC/FP/07 - Proposed Elevations.
 - 3) Notwithstanding the submitted plans, prior to the commencement of any development, a surface water drainage scheme informed by evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. No surface water shall discharge to the public sewerage system either directly or indirectly. The development shall then be completed in accordance with the approved details.
 - 4) Prior to the occupation of the development hereby approved, the recommendations of the noise assessment submitted as part of the appeal shall be implemented and maintained thereafter.

Application for costs

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

Procedural Matters

3. During the course of the appeal, the revised National Planning Policy Framework (the Framework) was published. The main parties were asked to comment on the implications of this document for their respective cases. I have had regard to the responses made.
4. The Eden Local Plan 2014-2032 was adopted by the Council on 11 October 2018. I asked the main parties to comment on this revised policy position and I have taken their responses into account. The appellant has made me aware of the possibility of challenge to the newly adopted Local Plan. Even if such a challenge were to be made, the Plan remains adopted and operable unless suspended in full or part by the High Court. I have therefore had regard to it and give it full weight in this decision.

Main Issues

5. The Council on their decision notice cite three reasons for refusal. These relate to the principle of residential development in a small village, the scale of the property and concerns about noise pollution from the nearby motorway. I am advised that since this appeal was made, an application for a smaller dwelling on the site was approved¹ on 16 August 2018. The Council in their statement confirms that in light of this approval, the principle of housing development on the site is acceptable. Furthermore the submission of a noise assessment has addressed their concerns regarding the impact of noise.
6. Accordingly, as two of the matters in dispute have effectively been resolved, I consider that the issue raised by this appeal is whether the size of the proposed dwelling would be appropriate to meet local housing need and if harm arises, whether this is outweighed by other considerations.

Reasons

Local housing need

7. Policy LS1 of the Eden Local Plan supports the principle of development in rural villages and hamlets where it is of an appropriate scale subject to a number of requirements being met. Policy HS2 of the Plan provides further guidance and permits new residential development in smaller villages and hamlets such as Clifton, provided that they are appropriate in scale reflecting the built form and neighbouring development to the site and the service function of the settlement. The Policy goes on to state three criteria which must also be met.
8. The first relates to whether the development would form infilling or rounding off of the settlement. This is also a requirement of Policy LS1. I have already stated there is no longer any dispute in this regard between the parties. I have no reason to disagree with this conclusion.
9. The second criterion requires that the dwelling does not have more than 150 sq metre internal floorspace. In the appeal case, the proposed dwelling has 4

¹ Planning application ref 18/0446

bedrooms and a floor area of around 250 square metres. It is therefore much larger than the policy allows. The purpose of Policy HS2 is to encourage innovative methods of providing housing to meet local needs and help support small villages. It aims to assist those with strong local connections not considered to be in affordable housing need, to build their own homes for example through self-build. The restriction on floor area seeks to ensure that properties are affordable to local people. The appeal scheme, conflicts with this part of the policy.

10. The third criterion relates to development on greenfield sites and requires a condition or legal agreement restricting occupancy to those with a local connection. There is agreement between the parties that the appeal site forms a previously developed site. Therefore a local occupancy restriction is not required in this case.
11. In summary, whilst the appeal scheme would comply with Local Plan Policy LS1 and criteria 1 and 3 of Policy HS2, it would conflict with the second criterion of Policy HS2 regarding internal floorspace.

Other matters

12. I note that Policy LS2 of the Local Plan gives an annual requirement for housing in small villages and hamlets of 20 dwellings. I am also advised by the Council that since 2010 a total of 110 dwellings have been approved in Clifton. However this policy has only recently been adopted and would not have been in force over this time period. In any event I do not have before me a more detailed annual breakdown to assess this against the policy requirement.
13. Policy CS1 of the Core Strategy also encourages where practical the reuse of previously developed land within settlements. As the appeal site is brownfield, this policy objective, would also be met. The reuse of a brownfield site is supported by paragraph 118 of the Framework and lends further support to the scheme.

Other considerations

14. I have found that the appeal scheme would comply with Local Plan Policy LS1. However it would conflict with Policy HS2 in terms of the scale of the dwelling to meet local housing need.
15. I am advised that the Council can, since the adoption of the Local Plan, demonstrate a 5 year supply of housing land. Policies for the supply of housing are therefore up to date. In these circumstances in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, I must determine the appeal proposal in accordance with the development plan unless material considerations indicate otherwise.
16. In this case there is a technical breach of one policy in the development plan, namely Policy HS2. However I am mindful that as the site forms previously developed land, a local occupancy restriction does not apply in this case. The dwelling may not therefore be occupied by a local person. That being said, I have no substantive evidence that the scheme for a dwelling of the size proposed would not meet an element of local need and would not be affordable. Furthermore no issues of environmental or visual harm have been raised by the Council.

17. Accordingly I consider that the proposal accords with the adopted development plan when read as a whole. The Framework, as a material consideration, sets out in paragraph 11, that in such circumstances a proposal should be approved without delay. In the absence of any identified adverse impacts, I find that there is no justification for the dismissal of this appeal.

Conditions

18. The Council have suggested a number of conditions should the appeal be allowed. The appellant has had the opportunity to comment on these. In addition to the standard timeframe condition, I consider that it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans for the avoidance of doubt.
19. A condition requiring the submission of a surface water drainage scheme is also necessary to ensure that the site is appropriately drained and to manage the risk of flooding. Additionally a condition requiring adherence to the recommendations of the submitted noise assessment is required in the interests of safeguarding the living conditions of future residents.

Overall Conclusion

20. For the reasons given above and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR