The Planning Inspectorate

Appeal Decision

Hearing Held on 23 May 2019
Site visit made on 23 May 2019

by Y Wright BSc(Hons) DipTP MSc DMS MRTPI

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

Decision date: 25 June 2019

Appeal Ref: APP/N1350/W/18/3216060
Land to the rear of East Green and Manor Court, Heighington, Co Durham DL5 6PP

- 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 & Mrs Routledge against the decision of Darlington Borough Council.
- The application Ref 18/00034/FUL, dated 16 January 2018, was refused by notice dated 30 July 2018.
- The development proposed is construction of 5 dwellings.

Decision

1. The appeal is dismissed.

Procedural matters

2. The site address in the heading above is different to that set out in the original planning application form. I confirmed with the main parties at the hearing that the above address more accurately reflects the site location.

3. Since the determination of the planning application the National Planning Policy Framework (the Framework) has been revised (February 2019). At the hearing I gave the main parties the opportunity to comment on this.

4. A dated and signed planning obligation in the form of a unilateral agreement was submitted prior to the hearing pursuant to section 106 of the Town and Country Planning Act 1990. I consider this planning obligation later within my decision.

5. An agreed statement of common ground has been submitted which sets out the development plan policies that are relevant to the proposal and the matters of agreement and disagreement between the two main parties. Whilst the reasons for refusal only refer to one saved policy in the Borough of Darlington Local Plan 1997 (LP) and two policies within the Darlington Core Strategy Development Plan Document 2011 (CS), both main parties refer to other policies being relevant. These were discussed during the hearing and I have taken them into account. Whilst I recognise that saved LP Policy E2 is based on an out of date strategy, it nevertheless still forms part of the development plan and may be accorded appropriate weight where justified. I acknowledge the different positions of the main parties on this policy, later in my decision.

Main Issues

6. I consider the main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the character or appearance of the conservation area and on the setting of nearby listed buildings; and
- whether there are any other material considerations which would justify the development being determined other than in accordance with the development plan.

Reasons

Character and appearance

7. The site consists of a broadly triangular area of land located at the eastern edge of Heighington village. It is currently grazed by sheep and forms part of a larger open field. The site, along with the rest of the village, has an elevated hilltop position above the surrounding countryside. It offers expansive views of the wider rural landscape, due to this elevated position.

8. At my site visit I saw that the character of the site is distinctly open and rural when compared to the adjacent residential development which is experienced when walking down the access track to the field gate. Despite it's relatively small size, the site makes an important contribution to the form and character of the surrounding countryside and appears as an integral part of it. It provides a well-defined rural edge to the settlement in this location, being distinctly separated from the adjacent built form to the north and west by the prominent stone walls. The site does not visually or physically form part of the existing built settlement.

9. In my view, the introduction of built form within the site would adversely harm its existing openness and pastoral nature, eroding its contribution to the rural character and appearance of the surrounding area. The size, scale, location and bespoke design of the buildings, together with the retention of existing trees and hedgerows, provision of additional landscaping and stone wall repairs, would not mitigate this material harm. The resultant encroachment of development into the countryside would not be in keeping with the existing character and appearance of the area.

10. I recognise that there would be limited views of the development from within the village and only glimpsed views from the adjacent public footpath and nearby bypass. However walkers and road users would still experience a degree of change in their outlook with the reduction of open countryside views and its replacement with buildings, albeit that this would be limited.

11. Based on the above, I conclude overall that the proposed development would result in adverse impacts to the character and appearance of the area. This would be contrary to CS Policy CS2 which seeks development that reflects and/or enhances the distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. The proposal would also conflict with the Framework which seeks to achieve well-designed places which are sympathetic to local character and history.

Conservation area and listed buildings

12. The appeal site lies within the Heighington Conservation Area (CA) and immediately adjacent to and within the setting of listed buildings. As such I must give special regard to both the desirability of preserving or enhancing the character or appearance of the conservation area, and preserving the listed buildings or their settings or any features of special architectural or historic interest which they possess, in accordance with the statutory duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. Both duties are reflected in the Framework which identifies that *'great weight'* should be given to an asset's conservation. I first turn to assess the effect of the proposal on the conservation area.

13. The Council's Heighington Conservation Area Character Appraisal (2019) (the Appraisal) sets out the defining historic and architectural characteristics of the CA. This includes its classic squared village shape with large central village green, back lane and fields beyond and its range of buildings predominantly dating from around the 18th century, though there are some earlier examples. The conservation area is spatially significant. It's open countryside setting contributes to this significance and it is strongly influenced by its elevated hilltop position.

14. The simple built character within the area includes distinctive plot layouts and low density. Modest architectural characteristics contribute to unity in housing design and appearance. Historic outbuildings and boundary walls add critical integrity to building groups. The village is encircled by open countryside and there are *'long green views'*. The Appraisal defines the appeal site and some of the open fields to the south east of the village as making a high contribution to the special interest of the CA. These fields protect the setting of the hillside village from this direction. I note that the CA boundary has recently been extended in 2019 to incorporate further open fields to the south, reflecting their importance to the village.

15. Being undeveloped, the appeal site forms a green and pleasant open pastoral space which connects to and provides views of the wider rural landscape beyond. It is an integral part of the open countryside setting within the CA. Whilst the proposed scheme would be low density and of an acceptable scale and design, its location in an elevated position within an open field on the edge of the built settlement, would not reflect its important contribution to the special interest of the CA.

16. It has been suggested that the proposed development would fill in the square form of the village in this location. However the appeal site has historically remained undeveloped and there is no evidence that there was any intention for the back lane to totally encircle the village in this locality, particularly considering the more challenging topography. Furthermore, reducing the agricultural use of the field would harm the existing historic context and functional connection.

17. Whilst the appeal site is small in size, it nonetheless forms an important part of the open field pattern in this locality. The proposed development would not keep this part of the field open, permanently altering its character and historic value to the CA, reducing its contribution to the special interest identified. This would harm the significance of the CA.

18. I acknowledge that the Council has allowed development[1] on other open fields surrounding the village. However these permissions were granted at a time when the Council accepted that it was unable to demonstrate a 5 year supply of deliverable housing sites (5YHLS) and was prior to the publication of updated national planning policy. These schemes were therefore considered under a different policy framework. Particular reference has been made to permitted residential development on land off Beech Crescent to the north of the appeal site (Council reference 16/00820/FUL) as this is within the CA boundary. Nevertheless the Appraisal clearly identifies this land as having *'some contribution to special interest'* unlike the appeal site which makes a *'high contribution'.* For this and other identified reasons it is not directly comparable to the appeal site. Neither are the other sites. In any case each proposal must be determined on its own planning merits.

19. I therefore conclude that the development would fail to preserve or enhance the character and appearance of the Heighington Conservation Area. In considering the defining characteristics of the CA when taken as a whole, it is my view that this harm would be less than substantial, which carries great weight.

20. The development would also be contrary to CS Policy CS14 which includes seeking development that protects and, where appropriate, enhances the distinctive local built, natural and historic landscapes local character and distinctiveness. I now consider the effect of the proposal on nearby listed buildings.

21. The site lies within the setting of several Grade II listed buildings. As set out in the statement of common ground, it is agreed between the main parties that there would be no harm to the setting of Trafalgar House, Manor House or Manor House Farm. Within its evidence, the Council also refers to the effect of the proposal on Eldon House and its other garden buildings, though these are not referenced within the reason for refusal.

22. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving the setting of these listed buildings. In this respect, due to the level of existing screening and presence of intervening built development, I am satisfied that the development would preserve this interest for these listed buildings. I therefore confine my consideration in this regard to the effect of the proposal on the significance of the boundary walls and gazebo at Eldon House (all Grade II). Whilst the gazebo is also not specifically referred to in the Council's reasons for refusal, it does form an integral part of the boundary walls and is visible from within the site. Both main parties have referred to the gazebo within their evidence.

23. In this location, the boundary walls and integral gazebo define the visual, functional and historic boundary between the built form of the village, particularly the extensive residential private gardens of Elsdon House, and the open rural fields beyond. These fields, including the appeal site, form a distinct undeveloped open and spacious rural setting which positively contributes to the significance of these assets.

24. Other than the construction of the modern bypass around the eastern side of the village, this rural setting has remained undeveloped over the years. The

[1] Council references: 16/00820/FUL, 18/00191/OUT and 18/00035/FUL

rural nature of the setting therefore contributes particularly strongly to the significance of the assets.

25. On my site visit I saw that the listed walls have been altered to some extent in the past and are partially obscured by existing mature trees and overgrown vegetation. Nevertheless they are still visible in parts and the open, spacious setting provides an important historic context for the structures and allows them to be appreciated. The gazebo includes an original window facing east which directly overlooks the appeal site and the surrounding countryside. The rural views from this window were clearly meant to be seen.

26. Whilst the trees to the front of this window filter some views, the rural setting in this location makes an important contribution to how the assets are experienced and appreciated, particularly in visual and historical terms. In my view, taking the above into account I consider the appeal site, as part of the immediate setting of the assets, has limited capacity to accommodate change without harming significance or the ability to appreciate these assets.

27. I acknowledge that the scheme would be low density, with an agricultural layout, scale and design that would reflect farm-type buildings. Even so, it would still introduce built development, of a residential form, including associated domestic and garden paraphernalia, into the site, in close proximity to the heritage assets. This change in character would alter the immediate setting of the listed buildings, harming its historic, functional and visual contribution.

28. Overall, taking the above factors into account, I conclude that the development would fail to preserve the settings of these listed buildings and therefore their significance. In my view, this harm would be less than substantial, which carries great weight. The development would also be contrary to CS Policy CS14.

29. In considering the planning balance required by paragraph 196 of the Framework it is necessary to consider the public benefits of the scheme against the less than substantial harm to the significance of the heritage assets I have identified.

Consideration of public benefits

30. The development would be in an accessible location and the proposed five dwellings, including three affordable single storey properties would, in my view, make a small contribution to the supply of housing in the Borough.

31. The economic benefits would be limited, as construction jobs and local building trades and services would be supported for only a short, temporary period. Future occupants of the properties would make a small contribution to local shops, services and community facilities within the area.

32. The provision of additional landscaping and the retention of existing trees and hedgerows would predominantly be necessary to provide for the future occupiers of the development and to mitigate for any harm and therefore would not constitute public benefits. There would be some very minor benefits for biodiversity from the additional native tree planting and landscaping.

33. Overall, I consider that the above public benefits would collectively be rather limited. In the context of paragraph 196 of the Framework and taking account

of the weight I have attached to the public benefits I have identified, I conclude overall that they do not outweigh the great weight I attach to the less than substantial harm to the significance of the conservation area and listed buildings.

Other material considerations

34. There is a dispute between the main parties over whether the Council can demonstrate a 5 year housing land supply (5YHLS). Whilst the Council has published several different 5YHLS position statements recently in response to other appeals, it is inevitable that the land supply position at any given time will change as new site delivery information becomes available, developments are completed, and new planning permissions are granted.

35. Furthermore whilst the appellants have queried the deliverability of some of the sites within the 5YHLS, the Council confirmed during the hearings that even if such sites and emerging allocations are removed from the Council's land supply assessment, a 5YHLS can still be demonstrated. On this basis, the sites would all have planning permission. I have no substantive evidence to indicate that these sites are undeliverable. Therefore for the purposes of this appeal I consider the Council can demonstrate a 5YHLS. Consequently policies for the supply of housing are not out-of-date and paragraph 11 (d) of the Framework does not apply in this instance.

36. There is also a dispute over the weight to be attached to LP Policy E2 which defines the settlement limits and states that most new development will be located within these limits, unless it meets the criteria listed. These development limits have not been superseded and therefore still form part of the development plan.

37. However, in order to deliver the required housing needs for the borough, development beyond these limits is necessary. Indeed the Council agrees that this is the case. Nevertheless, this does not mean that every development proposed beyond these limits would be acceptable. Furthermore, whilst the extent of the development limits for some settlements may not be up to date, the policy is broadly consistent with the Framework which seeks sustainable development in rural areas.

38. The appeal site is outside the development limits for Heighington. On this basis, I conclude that the proposal would conflict with LP Policy E2. It would also be contrary to CS Policy CS1 which sets out the Council's locational development strategy and is also broadly consistent with the Framework.

39. I have already set out and considered the suggested benefits of the proposal and identified those that are of public benefit. I do not repeat them again here, but as they collectively are limited in scale, they carry only minor weight.

40. Taking the above into account, I conclude that these material considerations would not justify the development being determined other than in accordance with the development plan.

Other matters

41. I have carefully considered other concerns raised by local residents on matters including access, traffic, pedestrian safety, living conditions for neighbouring

residents and the capacity of water and sewerage services to cope with the additional development.

42. The evidence before me demonstrates that the access would be acceptable, and the traffic generated by the development would not be materially adverse on highway and pedestrian safety. In this regard I note that the Highway Authority does not object to the proposal, subject to the imposition of suitable conditions. The local utility company has also not raised any concerns on drainage and sewerage capacity. In addition other relevant matters could be adequately dealt with by conditions.

43. However whilst I find no harm in relation to these matters the resultant neutral effect weighs neither for nor against the proposal.

The Planning Balance

44. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework. The Framework is of course a material consideration to which substantial weight should be attached.

45. I have determined above that the proposed development would result in material harm to the character and appearance of the area, would fail to preserve the settings of the adjacent listed buildings and would fail to preserve or enhance the character and appearance of the Heighington Conservation Area.

46. In considering the material considerations I have found that, for the purposes of this appeal, the Council can demonstrate a 5YHLS. Even if I were to conclude there was a shortfall in the 5YHLS, the adverse impacts I have identified against the main issues would significantly and demonstrably outweigh the identified benefits, when assessed against the policies of the Framework as a whole. On this basis the presumption in favour of sustainable development would not apply in this case.

47. Other material considerations do not outweigh the conflict I have identified with the development plan policies. Other matters result in a neutral effect and therefore do not weigh in the balance.

Conclusion

48. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Y Wright

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Steve Barker, Managing Director, Prism Planning

Mrs Clare Booth, Heritage Consultant, ELG Planning

Mr Rod Hepplewhite, Director, Prism Planning

Mr Chris Brown, Architect, Wardman Brown

Miss Ellie Drozdowska, Prism Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Harker, Planning Officer, Darlington Borough Council

Mrs Fiona McCall, Planning Policy Officer, Darlington Borough Council

DOCUMENT SUBMITTED AT THE HEARING:

1 Five year housing site delivery 2020-2024 plan