



Appeal Decision

Site visit made on 5 August 2019

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2019

Appeal Ref: APP/H0928/W/19/3229308

Field adjacent to A685, Church Brough, Nr Kirkby Stephen CA17 4EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr and Mrs F Milburn against Eden District Council.
 - The application Ref 19/0104 is dated 8 February 2019.
 - The development proposed is described as new dwelling garden curtilage area, field adjacent road, A685, Church Brough.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs F Milburn against Eden District Council. This application is the subject of a separate decision

Procedural Matters

3. The appeal scheme is an outline proposal for the erection of a new dwelling with all matters reserved. Although a drawing has been submitted with details of design, I have treated this as indicative only.

Background and main issues

4. The Council failed to determine the application within the statutory timescale and the appeal is made on this basis. However, the Council's appeal statement outlines what decision it would have been minded to have made had it been in a position to do so. This forms the basis of the points of contention between the main parties and therefore the main issues are (i) whether the appeal site is a suitable location for development having regard to local and national policies and; (ii) the effect of the proposal on the character and appearance of the area with particular regard to the setting of the Church Brough Conservation Area.

Reasons

Whether the appeal site is a suitable location for development

5. Policy LS1 of the Eden Local Plan 2018 (LP) sets out the locational strategy for new development within the district. Within this policy Church Brough is identified as a Key Hub which is the focus for development in order to sustain

local services subject to such development respecting the historic character and form of the village.

6. Church Brough is a linear settlement which extends north to the A66 and southward down the western side of the A685 toward Kirkby Stephen. The central section of the village extends west towards the Brough Castle and it is in this location where the greatest concentration of development is located.
7. I saw from my site visit that the majority of the limited services and facilities including the primary school, bus stops and convenience store are located towards the northern end of the built-up area as described above or on the north side of the A66 in the adjoining settlement of Brough.
8. To the south and towards the appeal site the built form tails off but continues to line both sides of the road until it reaches Vicarage Drive. Beyond this point there are just three properties, two on the eastern side of the road, sitting between the A685 and the road which runs through the centre of the village and one on the western side of the road which sits immediately to the north of the appeal site.
9. Whilst I acknowledge that there are no defined settlement limits associated with the settlements as identified within Policy LS1, based upon the evidence I have been provided with and from what I saw on the site visit as described above, I concur with the Council that in practical terms the settlement of Church Brough sits between the A66 to the north and Vicarage Drive to the south. Therefore, the appeal site is, for the purposes of applying planning policy, outside of the settlement.
10. Policy LS1 requires developments on sites that are outside of settlements to be considered under "other rural areas" where development outside of Key Hubs is restricted to the re-use of traditional buildings, the provision of affordable housing as an exception to policy, or where proposal accords with other policies in the Local Plan. Policy HS2 also requires that new housing in other rural areas is restricted to affordable housing within a coherent settlement. The appeal proposes one unit of residential accommodation outside of the settlement that would be restricted to local occupancy, housing a local family. I have no evidence to suggest that the proposed dwelling would be affordable, nor have I been presented with any justification with regards to the perceived benefits of the proposal other than the personal benefit afforded to the appellants' family. I therefore find conflict with the requirements of Policies LS1 and HS2 of the LP.
11. I note that the appellants refer to the Council's previous consideration of the site (as part of a larger parcel) as a potential allocation within the Local Plan and suggests that the omission of the wider site from the allocations should not preclude the site from small scale development. Whilst I acknowledge that the Council identified some positive attributes with regard to the site, when compared to the other sites which were later allocated it did not perform as well.
12. Nevertheless, the expert that the appellants have provided me forms one part of the Council's evidence base, it is a snapshot in time as part of the Local Plan preparation. The LP has since been adopted and therefore has been found sound against the requirements of the National Planning Policy Framework (the Framework). The Council has confirmed as part of that process that it can

demonstrate a deliverable 6.8 year housing land supply. I have no evidence before me to indicate that this is not the case, although I note that the appellants assert that there is an allowance for windfall housing that may be in jeopardy and that the appeal site could contribute towards housing delivery. Whilst I accept that the appeal site would provide a modest contribution to housing land supply, in the context that the evidence indicates that there is a demonstrable and deliverable five year land supply of housing sites and a lack of evidence to the contrary, it does not alter the harm that I have identified by virtue of the conflict with Policies LS1 and HS2.

13. The appellants have drawn my attention to the Upper Eden Neighbourhood Plan 2012-2025 (NP) and the provision within the NP for smaller housing sites within key settlements. Whilst I have not been provided with the full wording with regards to this element of the NP, I have concluded that the appeal site is outside of the settlement of Church Brough and therefore must be assessed accordingly as set out above.
14. For the reasons outlined above, I conclude that the proposed development would not provide a suitable location for a dwelling having regard to the sustainability aims of Policies LS1 and HS1 of the LDP which set out the settlement hierarchy for the District and restrict new housing outside the defined settlements in 'other rural areas' to affordable 'rural exception' homes.

Character and appearance

15. The appeal site sits to the northern end of a wedge-shaped parcel of land which extends southward, adjoining the A685 at its southern most boundary. On the day of my site visit, I approached Church Brough from the south via the A685 and I immediately noted the prominence of the appeal site which sits, raised from the A685 and the adjacent village road and beyond the limits of the settlement. As I travelled through the village, I noted the compact nature of the village that is characterised by modest properties which line the main street and market square area. The settlement extends northward towards the A66 and beyond the market square properties are larger and are set back further from the main road. Nevertheless, the character remains intact, closely developed buildings, narrow lanes and a limited palette of materials.
16. To the south, at Vicarage Drive, the character of the village changes quite significantly and it is easy to appreciate why the Conservation Area ends at this point. The densely developed traditional built form stops and one becomes aware of the open countryside that encircles the village to the south. There are just four properties beyond this point, two of which are large detached relatively modern houses that are set back from the road on the opposite side to the appeal site. The third, which adjoins the appeal site is a modest single storey detached brick-built property that is set back from the road and heavily screened by mature trees and hedgerows. Similarly, the fourth property is a large detached property that is set back from the road within large mature, secluded grounds.
17. In contrast, the appeal site sits within an area that is entirely open on all sides and without any logical defensible boundaries besides the main street which would provide access. The development of the appeal site would extend the village further beyond the settlement's limits into the open countryside and would have an unacceptable impact upon the openness of the area.

18. Furthermore, due to the contours of the landscape and the position of the site at the foot of the Pennines, when viewed from the south on the A685 the development proposal, be it either single or double storey in height, would appear prominent and incongruous in the context of the remainder of the village and would detract from the compact, tightly knit built form that is characteristic of the village and the CA.
19. Policy ENV10 of the LP relates to the historic environment and it affords great weight to the conservation and enhancement of the historic environment, assets and their setting. The principle of developing a residential dwelling in such a prominent location both in the context of the CA and the open countryside would have an unacceptable impact on the character and appearance of the area, including the sense of space and more sporadic form of development which forms part of the setting of the CA.
20. I conclude that the proposal would cause harm to the character and appearance of the area and the setting of the CA and in this regard I find conflict with Policy ENV10 of the LP.

Conclusion

21. For the reasons outlined above, and taking into account all other matters, I conclude the appeal should be dismissed.

J. Hunter

INSPECTOR