



Appeal Decision

Site visit made on 24 September 2019

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/X1355/W/19/3233777

Eden Vale Cottage, Stockton Road, Castle Eden TS27 4SD

- 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 J Grundy against the decision of Durham County Council.
 - The application Ref DM/18/03586/FPA, dated 22 November 2018, was refused by notice dated 13 February 2019.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has raised concerns in relation to the submission of the Council's statement of case outside of business hours. The deadline for the submission of the Council's appeal statement was 29 August 2019 and not 16:30 hrs on the 29 August 2019. Notwithstanding the provisions of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 it is normal practice that if a document is received on the date of the deadline then it is deemed to be submitted whether it be via electronic or non-electronic communications. This is done in the interests of natural justice and to ensure fairness to all parties. If a piece of evidence or document from one party is received on the deadline date and it is not taken into account, it could mean that the decision is perceived to be prejudicial to the other party.
3. In any event the contents of the Council's appeal statement did not raise any additional substantive issues pertinent to the appeal that the appellant was not already aware of. In addition, the appellant has had an opportunity to comment on the Council's statement and has done so. I am therefore satisfied that both parties have had an opportunity to submit their statements of case both of which I have considered in my determination of this s78 appeal.

Main Issues

4. The main issues raised by this appeal are:
 - whether the site would provide a sustainable location for housing having regard to the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the area with particular reference to the significance of the Castle Eden Conservation Area (CA); and

- the effect of the proposed development on landscape quality.

Reasons

Whether the site is a sustainable location for housing

5. The appeal site is situated on the north-eastern edge of Eden Vale, a small rural village to the south east of Castle Eden. It comprises a large informal garden area with a substantial lawn and several trees, shrubs and hedges. To the south there is a large farmhouse as well as a sizeable agricultural shed with associated vehicles.
6. The surrounding area comprises agricultural land to the east and north of the site with housing to the south and west (primarily to the south of Stockton Road). This housing consists of a mixture of large detached dwellings with substantial gardens surrounded by trees and more traditional terraced dwellings and more modest detached dwellings fronting Stockton Road itself. Much of the surrounding built-up area is also within the CA as is the southern portion of the appeal site.
7. I note the appellant's point that Policies 1 and 3 of the District of Easington Local Plan 2001 (DELP) are out of date and should therefore be afforded limited weight. However, paragraph 213 of the National Planning Policy Framework (the Framework) provides that existing policies should not be considered out of date simply because they were adopted prior to its publication and that weight should be given to them depending on their consistency with the Framework. The overall aims of Policies 1 and 3 are to promote sustainable development and to protect the countryside from inappropriate development which are both consistent with the overall aims of the Framework.
8. In any event, given the location of the appeal site on the edge of Eden Vale and its distance from the built-up area of the village I consider it to be within the countryside. Having regard to the Dartford Case¹, the appeal site should be classed as being previously developed land. This however, does not mean that the appeal site is sustainable as this is dependent on the three overarching objectives as set out by paragraph 8 of the Framework.
9. Due to the proximity of the appeal site to the built-up area of Eden Vale, both parties agree that it cannot be regarded as being isolated. They also agree that Eden Vale is a small rural village with a limited range of services and facilities which means that residents need to travel to the larger villages of Castle Eden and Wingate in order to meet their service needs.
10. Whilst Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions vary between rural and urban locations, its overall aim is to reduce reliance on the private car as a mode of transport. Given the infrequent local bus service and the lack of a lit footpath between the appeal site and the nearest bus stop it would be highly likely that future occupiers of the proposed dwelling would access services by private car, something that the parties appear to agree with. This would not achieve the social sustainability objective set out in the Framework as services would not be accessible by means of transport other than the private car.

¹ *Dartford BC v SSCLG [2016] EWHC 635 (Admin)*

11. Paragraph 78 of the Framework promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. I note the appellant's points regarding the economic and environmental benefits that the proposed development would potentially provide. While the appeal scheme would provide one dwelling and deliver modest economic and environmental benefits, in the round, these benefits would not outweigh the accessibility issues that I have set out.
12. Consequently, taking into account all of the factors discussed above, I am not satisfied that the appeal site is a sustainable location for housing. I therefore conclude that the proposed development would conflict with DELP policies 1, 3 and 36 and paragraphs 8 and 103 of the Framework which jointly aim to achieve sustainable development and ensure good accessibility to services and facilities.

Effect on the significance of the CA

13. In accordance with the statutory duty set out in section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('The Act') I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA derives from the traditional high-quality design of the sizeable residential properties within large plots surrounded by mature woodland that is complemented by the surrounding high-quality landscape.
14. The southern part of the appeal site and the existing dwelling 'Eden Cottage' lie within the CA. The northern part of the site where the proposed dwelling would be located contributes to the setting of the CA due to its large manicured garden area comprising a substantial mowed lawn interspersed with small manicured hedges and trees. The proposed dwelling would be of a high-quality design and constructed using materials that would complement the existing residential properties within the CA.
15. The size of the proposed dwelling and its location towards the northern boundary of the appeal site would leave a substantial amount of manicured garden area around it. This would be of a similar nature to that surrounding the dwellings within the CA. The proposal would also not reduce the amount of open space or the number of mature trees surrounding Eden Cottage to the south. Consequently, given the above, I consider that the proposed development would preserve the character of the CA and therefore not cause harm to its setting or significance as a whole. I therefore conclude that the proposed development would not conflict with Policy 22 of the DELP.
16. While the Council cite paragraph 196 of the Framework, this is not relevant given that I have found that the proposal would preserve the CA.

Effect on landscape quality

17. The Council say that the proposed dwelling would compound an existing impact on the Area of High Landscape Value (AHLV) from the neighbouring dwelling 'Loreta' due to the site's topography and the surrounding landscape.
18. The proposed dwelling would be screened by the existing mature trees and hawthorn hedgerow on the northern boundary of the appeal site. Similarly, the neighbouring dwelling to the east of the appeal site (Loreta) would, in combination with the existing mature trees and hedgerow on the eastern

boundary, screen the proposal when viewed from the footpath to the east which is a good distance away. I therefore consider that these matters would mitigate any potential impact that the proposal may have on the AHLV when viewed from the footpaths to the north and east. Furthermore, given the above, I also consider that the more open views of the high-quality landscape are to be found looking northwards and eastwards from the appeal site and not towards it where several buildings within the CA are already clearly visible from the aforementioned footpaths.

19. Consequently, given the design of the proposed dwelling; the materials to be used; its location; and the fact that it would be sufficiently screened I do not consider that it would harm the quality of the local landscape. I therefore conclude that the proposal would not conflict with Policy 7 of the DELP or paragraph 170 of the Framework.

Other Matters

Planning Obligation

20. The appellant submitted a unilateral undertaking which provides a financial contribution of £756.61 towards the cost of providing offsite management of public open space outside of the Northumbria Coast Special Protection Area. Whilst I acknowledge that an obligation has been submitted, given that I am dismissing the appeal on other substantive grounds it is not necessary for me to examine it in detail.

Existing access and Planning Contravention Notice

21. I note the Council's point about the existing access, the removal of the hawthorn hedgerow and the appellant being served with a Planning Contravention Notice. However, these are not matters for me to consider as part of this appeal which I have, in any event, determined on its own merits.

Other similar development proposals

22. I note the appellant's points with regards to similar development proposals being permitted in the Castle Eden area. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken. In addition, the circumstances applicable to the Garden House Lane scheme² are not exactly the same as those presented in this case, which I have determined on its own merits. The existence of other similar development proposals in the locality does not outweigh my findings in respect of the sustainability of the appeal site.

Conclusion

23. Notwithstanding the fact that the proposed development would be acceptable in terms of the CA and landscape quality, these matters are outweighed by the harm that would be caused as a result of the site's location. I therefore conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

² Appellant Statement of Case Appendix F