



Appeal Decision

Hearing Held on 8 October 2019

Site visit made on 8 October 2019

by Helen B Hockenhull BA (Hons) B. PI MRTPI

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

Decision date: 5th November 2019

Appeal Ref: APP/P2935/W/18/3217291

Land East of Greycroft, West Thirston, Felton, Northumberland, NE65 9QB

- 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 Barry Spall, The Northumberland Estates against the decision of Northumberland County Council.
 - The application Ref 17/04290/OUT, dated 24 November 2017, was refused by notice dated 25 July 2018.
 - The development proposed is the change of use of agricultural land and construction of 30 residential dwellings together with an improved junction and access road off the C111 road, service roads, footpaths, structural landscaping, SuDS basin, open spaces and other ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On the original planning application form the address of the site was stated as land East of C111, West Thirston, Felton, Northumberland however the Council's decision notice referred to Land East of Greycroft, West Thirston. The parties agreed at the hearing that the latter address better described the location of the site. I have therefore used this in the banner heading above.
3. The development was refused by the Council for seven reasons. In the Statement of Common Ground, the parties indicated that agreement had been reached with regard to reasons for refusal 3,4,5,6 and 7. These relate to secondary school provision, the impact on European Protected Sites, drainage, affordable housing and health provision. Only reason 1 relating to the principle of the development outside defined settlement boundaries and reason 2 concerning the effect on the built form and character of West Thirston are still in dispute. Whilst the parties have reached agreement in relation to reason 4, in accordance with the Conservation of Habitats and Species Regulations 2017, I must consider the impact of the proposal on Protected European Sites. I have determined the appeal on this basis.
4. The appeal proposal is in outline with all matters reserved for later approval. The submitted Illustrative Proposed Site Plan is for indicative purposes only and I have considered it accordingly.

5. A certified copy of a signed and dated planning obligation made under section 106 of the Town and Country Planning Act 1990 (s106) was submitted after the hearing. The obligation relates to the provision of affordable housing as well as financial contributions to the Coastal Mitigation Service to mitigate the impact of recreational activity on European protected sites, and also secondary school and health provision. Following discussion at the hearing I am content that the obligations, are necessary to make the development acceptable in planning terms, directly related to the development and appropriate in scale and kind. They conform to the CIL Regulations and the obligations can be taken into account in my determination of the appeal.
6. The emerging Northumberland Plan was submitted to the Secretary of State in April 2019. The examination commenced on the same day as the hearing. Bearing in mind the number of objections to the Plan, the main parties agreed that limited weight should be afforded to its policies. I have considered the appeal on this basis. The West Thirston Neighbourhood Plan is at an early stage of preparation though I understand has been the subject of a first round of consultation. Again, as it may well change during the process, I afford it limited weight in this appeal.

Main Issues

7. In light of my comments above and having regard to all that I have read and heard, I consider the main issues in this case are:
 - whether the appeal site forms a suitable location for residential development having regard to national and local planning policies;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on designated natural habitat sites.

Reasons

Suitable Location

i) Principle of development

8. The appeal site is located in the open countryside outside the settlement of West Thirston. Saved Policy WTC1 of the Castle Morpeth District Local Plan (CMDLP) 1991-2006 defines the settlement boundary for the village.
9. Saved Policy C1 states that settlement boundaries are drawn to identify the limits to settlements. The Policy goes on to say that development beyond settlement boundaries will not be permitted unless the proposals can be justified as essential to the needs of agriculture or forestry or are permitted by other policies of the plan. Saved Policy H16 relates to housing in the countryside and like Policy C1 permits new houses to meet an essential agricultural need. The proposed development would not meet the requirements of these policies.
10. The settlement boundaries defined in the Local Plan were established to meet the housing needs of Castle Morpeth between 1991 and 2006. The housing requirement is based on the housing policies of the Replacement Structure Plan 2005. This is not a National Planning Policy Framework (the Framework)

compliant assessment of housing need and the evidence base on which it relies is now out of date.

11. The appellant provided evidence from the 2018 Strategic Housing Land Availability Assessment that planning consents equating to more than 1500 dwellings had been permitted beyond settlement limits, contributing significantly to the Council's 5-year housing land supply position. I am also referred to a number of planning permissions for sites beyond settlement limits. This suggests that such sites are important to maintain the supply. I accept the situation is not that clear cut in all cases, as many settlements do not have defined boundaries. However, it appears to me that there is some reliance on sites outside settlements to maintain a 5-year housing land supply. Notwithstanding the fact that the Council can demonstrate a 5-year supply of housing land; the Council suggest the supply is in the region of 12 years; I consider that the settlement boundaries are out of date.
12. The appellant has brought my attention to a planning officer report with regard to a residential development in Hepscott Park where the Council accepted that the saved policies of the CMDLP, including Policy C1, were out of date. Whilst I have only been provided with an extract of this report and therefore, I am unable to determine if there was a 5-year housing land supply at that time, the report confirms that there were insufficient sites within settlement boundaries to meet the development requirements. This gives support to my conclusion above.
13. The degree of weight to be given to Saved Policy C1 depends on its consistency with the Framework. The policy no longer reflects the current development needs of the area, it fails to significantly boost the supply of housing and it is not based on objectively assessed needs.
14. The appellant argues that Saved Policy C1 is also inconsistent with the Framework because it establishes a blanket protection of the countryside, restricting development outside settlement boundaries irrespective of landscape value or sensitivity. Case law¹ has established that the Framework does not include such a blanket protection and regard must be had to the core planning principles favouring sustainable development.
15. In seeking to protect and enhance the character and rural heritage of the open countryside, Saved Policy C1 is not entirely consistent with the Framework, which in paragraph 170 seeks to protect valued landscapes, not 'ordinary' countryside, recognising its intrinsic character and beauty. That said, the Framework has a general objective of protecting the natural environment and recognition of the attributes of the countryside implies a level of protection.
16. I have had regard to the appeal decisions² brought to my attention by the Neighbourhood Plan Group where significant weight was given to Policy C1. However, these were written representation cases, where the evidence was not tested in the same depth as in this appeal.
17. Taking into account the evidence before me in this case, and my analysis of the components of Saved Policy C1, I find that it is partly consistent with the Framework. I therefore afford it moderate weight.

¹ Borough of Telford and Wrekin v Secretary of State for Communities and Local Government [2016] EWHC 3073 (Admin)

² Appeal Refs APP/P2935/W/18/3218408 and APP/P2935/W/3217210

18. Saved Policy WTC1, which defines the settlement boundary of West Thirston, explains that the boundary was drawn tightly around the existing village to retain its special architectural and historic character. I have no evidence before me to suggest that the character has changed significantly since the boundary was defined. It therefore still forms a useful function, protecting the character and appearance of the historic village. The appellant agreed at the hearing that in this respect, Policy WTC1 was not out of date. As a counterpart policy to Saved Policy C1, I also afford it moderate weight.
19. Saved Policy H16 provides criteria for housing development in the countryside. It is not wholly consistent with the Framework, which in paragraph 79 provides additional exceptions for housing development in the countryside. Accordingly, I attribute the policy moderate weight.

ii) Accessibility

20. The village of West Thirston has few facilities. There is a public house, a small repair garage and a children's nursery. For day to day shopping and other services residents must travel into Felton, the adjoining settlement. Felton is described as a sustainable village centre in the Alnwick Core Strategy. It has a primary school, a doctor's surgery, a general store, post office, café, village hall, church and recreation ground with play facilities.
21. On my site visit I walked from the appeal site into Felton, a journey of around 10 minutes. The path is not continuous on one side of the road, a user would need to crossover and it is unlit for a short distance. Whilst this makes the route less attractive for those walking, particularly after dark, I consider it still forms a suitable route to access the services and facilities in Felton.
22. West Thirston and Felton both have access to public transport. There is a bus stop approximately 300 metres from the appeal site, with the X15 service running hourly to Newcastle, Morpeth, Alnwick and Berwick. I acknowledge that the service does not run late into the evening. However, it provides a reasonably good service for residents to access the services and shops in the larger settlements.
23. In isolation West Thirston has very limited facilities, but there is good access to Felton for residents to meet every day needs. It is not uncommon for a rural village to be dependent on the shops and services in an adjoining settlement, neither is the need to travel to larger settlements either by public transport or car, for a wider range of services. Accordingly, I conclude that the appeal site is in an accessible location.

Character and appearance

24. The Council's second reason for refusal contends that the appeal scheme would be out of keeping with the scale of the settlement and would harm the built form and special architectural and historic character of West Thirston.
25. The village is built on the banks of the River Coquet. The older core is situated adjacent to the medieval bridge that crosses the river. The village was designated a conservation area in 1987.
26. In their evidence and again at the hearing, the Council explained their view that the appeal site, which lies outside the conservation area, would cause no harm to the significance of this heritage asset. The Council also confirmed that

- the development would not impact negatively on the setting of nearby listed buildings. I have no reason to disagree with this assessment.
27. The character of the village as a whole is one of a historic core, with later more modern development extending along The Peth. This later development is to an extent visually and physically separated from the centre of the village by mature trees planted along the river. The pattern of built form is one of linear development running alongside the highway.
 28. The appeal scheme, whilst in outline form, proposes the construction of 30 dwellings. Whilst the submitted layout is indicative, in order to achieve the density of development proposed, a cul de sac arrangement with houses positioned in a second row would be inevitable. This type of layout, in effect a small housing estate, would not be in keeping with the simple linear pattern of development in the village.
 29. West Thirston currently has around 80 homes. A development of 30 dwellings would significantly increase the number of properties in the village. I consider that the scale of development proposed would result in a significant expansion, out of keeping with the built form and character of the village.
 30. Accordingly, the proposed development would conflict with Saved Policies C1 and WTC1 of the CMDLP to the extent that they seek to preserve the existing character of the village.
 31. The Council in their reason for refusal also makes reference to Saved Policy WTC2. This policy seeks to refuse development that would have a detrimental effect on the landscape adjacent to or in the vicinity of the River Coquet, an Area of High Landscape Value (AHLV). The Council have provided little evidence in support of their position.
 32. The appeal site has a very different character to that of the river corridor. It is in agricultural use located on the settlement edge. In contrast the River Coquet is in a valley with mature wooded banks. The appellant has undertaken a Landscape and Visual Impact Assessment (LVIA) which concludes that the proposed development would have no effect on the AHLV along the River Coquet but would have a limited and very localised adverse effect on the AHLV to the south of West Thirston.
 33. There are existing residential properties between the river and the appeal site which are visible in views from the west. Having regard to these and the contrasting landscape character of the river corridor as described above, I concur with the LVIA that due to the lack of relationship between the appeal site and the river corridor in landscape terms, the appeal proposal would not cause harm to this part of the AHLV.
 34. When viewed from the south, the appeal scheme would be seen as an extension to the village. It would create a new settlement edge to the south and east, which subject to an appropriate landscaping scheme at reserved matters stage, would assist to screen the development from the wider countryside. Whilst there would be some localised harm, I consider that the level of landscape harm to the AHLV and the setting of the River Coquet would be negligible.
 35. Accordingly, the appeal scheme would overall comply with Saved Policy WTC2,

which seeks to protect the river from development which would detract from its character.

Designated natural habitat sites

36. The appeal site lies within the 10km coastal zone of influence of the Northumberland Shore Site of Special Scientific Interest (SSSI), the Northumbria Coast Special Protection Area (SPA) and Ramsar Site and the North Northumberland Dunes Special Area of Conservation (SAC). Within this zone, new residential development is likely to increase recreational disturbance or damage within coastal designated sites. In accordance with the Conservation of Habitats and Species Regulations 2017, planning permission cannot be granted unless it has been concluded through an Appropriate Assessment that the proposal, in combination with other plans and projects, would not have an adverse impact on the integrity of European protected sites.
37. The appellant has argued that a development of the scale proposed, located some 13km by road from the coast is unlikely to affect European protected sites. The Council and Natural England take a different view.
38. The SPA and the SAC were designated because of their international significance for wintering birds. An increase in walking and dog walking, particularly dogs off lead, can result in disturbance to feeding or roosting birds in the winter. In the appeal case, a development of 30 dwellings, despite being located on the edge of the zone of influence of the SPA and SAC, results in a reasonable likelihood that these protected coastal sites would be accessed for recreational purposes by future occupiers of the development. Although this may appear to be minimal by itself, a significant effect on the integrity of the SPA and SAC would occur, when considered in combination with other residential development in the surrounding area.
39. The Habitats Regulations require that permission may only be granted after having ascertained that a development will not affect the integrity of the European Sites. I may consider any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the sites concerned.
40. Northumberland County Council has developed a strategic approach to mitigation in consultation with Natural England in the form of the Northumberland Coastal Mitigation Service. This is a developer funded scheme. The appellant has provided a legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 to make an appropriate financial contribution to the scheme. Following discussion at the hearing, I am assured that the monies would be used to provide mitigation through this service. Therefore, as competent authority for the purposes of Regulation 61 of the Habitats Regulations, I am satisfied that the proposal would not have an adverse effect on the integrity of European protected sites.

Planning Balance

41. As the policies most important for determining this appeal, i.e. Saved Policies C1, WTC1 and H16 of the CMDLP are out of date, in accordance with paragraph 11d) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits when assessed against the policies of the Framework when taken as a whole.

42. In terms of adverse impacts, I have found that the appeal proposal, lying in the open countryside outside the settlement of West Thirston, would conflict with Saved Policies C1, WTC1 and H16 of the CMDLP. Due to their partial consistency with the Framework, moderate weight should be given to these policies. Furthermore, I have concluded that the proposal would cause significant harm to the character and appearance of the settlement.
43. Turning to the benefits of the proposal, the scheme would provide 30 new dwellings, however seen in the context of the current supply, I attach moderate weight to this contribution. The scheme also provides for 15% of the houses to form affordable homes, meeting the needs of the village. Taking account of the shortfall in affordable housing identified in the Northumberland Strategic Housing Market Assessment 2018 and the comments of the Council's Housing Officer, this contribution would be significant.
44. The development would have reasonable access to services, facilities and public transport and be in a relatively sustainable location considering its rural position. The provision of new housing would bring construction and supply chain jobs and labour force benefits. However, as these would be for the construction phase only, I attribute them limited weight.
45. I acknowledge that the scheme would provide green infrastructure, public open space and new habitat as well as a sustainable urban drainage system. However, as this provision is required in order to mitigate the impacts of the development, I consider they form neutral factors in the planning balance. My conclusion that, with mitigation measures, the proposal would not adversely affect the integrity of nearby European protected sites, is neither a benefit or a disbenefit and also attracts neutral weight.
46. The section 106 agreement provides contributions towards secondary school and health provision. However as this is necessary to offset the impact of increased numbers of residents, I afford it neutral weight in my assessment of the scheme.
47. In the planning balance, I acknowledge that I must give reduced weight to the current development plan. Nevertheless, I consider that the adverse impact of the development, particularly on the character and appearance of West Thirston, would significantly and demonstrably outweigh the benefits I have identified.

Conclusion

48. For the reasons given above, and having had regard to all other matters raised, I conclude the appeal should be dismissed.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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West Thirston Neighbourhood Plan
Group

Neil Skelton

West Thirston Neighbourhood Plan
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Michael Brett

Resident

Christine Wilson

Resident

Angela Smith

Resident

Hazel Linley

Chair, West Thirston Parish Council

Judy Galloway

Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Revised list of conditions reviewed by the Council and the appellant
2. Appeal decision Ref APP/P2935/W/18/3218408, Lynebank, Ulgham, Morpeth.
3. Appeal decision Ref APP/P2935/W/18/3217210, Land to the west of the C154 and north of Bewick House, Stonelea House and White Cottage, Whalton, Northumberland.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Signed and dated agreement pursuant to section 106 of the Town and Country Planning Act 1990.
2. Further revised list of conditions following discussion at the hearing.