The Planning Inspectorate

Appeal Decision

Site visit made on 20 January 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2020

Appeal Ref: APP/P2935/W/19/3237608
Land to the north west of Blue House Farm Cottages, Blue House Farm Road, Netherton Colliery NE22 6BB

- 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 P Milburn against the decision of Northumberland County Council.
- The application Ref 18/03529/FUL, dated 03 October 2018, was refused by notice dated 26 March 2019.
- The development proposed is a new dwelling with associated works.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has made reference to the Northumberland Local Plan Publication Draft Plan (Emerging Plan). The evidence indicates that this development plan has not yet reached adoption stage and hence the policies within it, as material planning considerations, cannot at this stage be afforded full weight in decision making terms.

3. I am required to determine this appeal in accordance with the relevant saved policies of the Wansbeck District Local Plan 2007 (LP) in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. Paragraph 213 of the National Planning Policy Framework 2019 (the Framework) states that due weight should be given to such policies *'according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'*. I deal with this matter later on in this Decision. In contrast to the policies in the Emerging Plan, the Framework is an up to date expression of the Government's planning policies for England and as a material planning consideration, I afford it significant weight as part of the determination of this appeal.

4. As part of the appeal, the appellant has submitted amended plans (Ref Nos 3355/00A; 3355/21C; 3355/12B and 3355/23A). In summary, the amended plans show the handing of the proposed dwelling to position the driveway and garage adjacent to the west boundary of the site and includes dropped kerbs to the footpath opposite the site. I note that the Council has commented on these plans in terms of its response to the appeal. I am satisfied that the amended plans show relatively minor changes to the development considered

at planning application stage. Consequently, I shall accept the amended plans for the purposes of determining this appeal and do not consider that any interested party would be prejudiced from a public consultation point of view.

Background

5. The Council's refusal notice includes three reasons for refusal. I agree with the Council and the Highway Authority that the amended plans proposal is necessary to overcome highway safety concerns raised in respect of the original plans.

6. I note the appellant's comments about the existing access into the site and how planning applications have been determined in respect of the neighbouring site in terms of layout and highway safety matters. Nonetheless, it is necessary that I determine this appeal on its individual planning merits and in the context that if planning permission were to be approved it would result in three new dwellings in a row taking into account the fact that planning permission has been approved for two dwellings adjacent to the appeal site (Ref Nos 17/01163/OUT and 18/03632/REM).

7. In the context of the above and bearing in mind increased footfall in the locality from three new dwellings, I do consider that it is necessary that the development includes all of the identified footpath improvements as requested by the Highway Authority. Furthermore, and notwithstanding decisions made on other sites, I do consider that it is necessary, in the interests of highway safety, to achieve the visibility splays as required by the Highway Authority. This is possible in respect of the amended plans which show a handing of the dwelling and hence moving the access away from the boundary fence.

8. I note that on the basis of the amended plans, the Council no longer wish to defend the highway safety reason for refusal. I do not disagree with the more recent views expressed by the Council in respect of this matter, noting that many of the highway and pedestrian safety requirements could be controlled by means of the imposition of planning conditions. In respect of the amended plans, the proposal would not lead to unacceptable highway impacts and on-site car parking provision would be adequate. Therefore, the amended proposal would accord with policies T4, T6 and T7 of the LP and paragraph 109 of the Framework.

9. In addition to the above, the appellant has submitted an Ecological Appraisal (EA) for the site prepared by E3 Ecology Ltd and dated September 2019. This has been prepared in order to address the Council's third reason for refusal relating to the potential for harm to protected species on the site. The Council has commented on the EA as part of the appeal process. Taking into account the EA, I do not disagree with the view reached by the Council that subject to the imposition of planning conditions, in respect of mitigation and enhancement measures, the evidence indicates that no harm would be caused to protected species or biodiversity on the site. To this extent, I am satisfied that the proposal would not conflict with the nature conservation requirements of policy GP13 of the LP or the Framework.

10. Notwithstanding the above, and despite not being specifically referenced in the Council's refusal notice, the Council has made it clear, from a very early stage (including the officer report), that as the site is less than 10 km from coastal SSSIs and protected European sites, it is necessary to consider the

development in terms of its effect on these areas. Indeed, it is necessary to consider the effect of increased recreational disturbance to bird species that are interest features of the coastal SSSIs and European sites, and increased recreation pressure on dune grasslands which are similarly protected. There is some dispute between the parties in respect of this matter and hence it needs to be considered as a main issue.

Main Issues

11. In the context of the above, the main issues are (i) whether in land use principle the development would constitute an acceptable form of development in the countryside having regard to local and national planning policies, including whether the site is accessibly located and (ii) the effect of the proposal on the integrity of coastal SSSIs and protected European sites.

Reasoning

Site and proposal

12. It is proposed to erect a detached dwelling with an attached garage on the site. The appeal site is open land and is positioned immediately adjacent to a terrace of three dwellings (i.e. Nos 1 to 3 Blue House Farm Cottages) and a detached dwelling known as 'The Old Storehouse'. Taking into account the aforementioned planning permission for two detached dwellings adjacent to the site, the proposal would be best described as an 'infill' type development continuing the linear form of residential development which exists/can be built along this part of Netherton Lane.

Land use principle and accessibility

13. The appeal site falls within land in countryside and outside of any defined settlement boundary in the LP. Policy GP1 Part C of the LP states that *'development in the countryside on sites beyond settlement limits will only be permitted if: a) the nature of the use requires a countryside location; or b) the development involves the re-use of an existing building; or c) the development involves an extension to a property within an existing curtilage; or d) in the case of greenfield development, it can be demonstrated that no suitable alternative previously-developed site is available'.* The proposal does not comply with a) to d) above and this is not disputed by the main parties. This weighs against allowing the proposal.

14. Whilst I have found conflict with Policy GP1 Part C of the LP, having regard to paragraph 213 of the Framework it is necessary that I consider whether such a policy is consistent with the Framework. In this case, the policy is more restrictive than rural housing policy outlined in paragraph 79 of the Framework. Indeed, this part of the Framework states that *'decisions should avoid development of isolated homes in the countryside'.* To this extent, I find that Policy GP1 Part C of the LP is out of date and hence I afford the conflict with it only moderate weight in decision making terms.

15. The Courts have determined what is meant by isolated in respect of paragraph 79 of the Framework. In this context, it is of note that the proposed dwelling would be positioned next to both existing residential development as well as the two dwellings that could be built in accordance with an extant planning permission. Furthermore, the appeal site is within a relatively short distance of the settlements of Nedderton and Bedlington. On this basis, I find that the

proposal would not lead to the provision of an isolated home in the countryside. In this regard, I do not consider that the proposal would conflict with paragraph 79 of the Framework. This is a material planning consideration of significant weight in favour of allowing the appeal.

16. In affording only moderate weight to the conflict with Policy GP1 Part C of the LP, I am also cognisant of the purposes of such a policy. Whilst the reasoned justification is not in itself policy, it nonetheless explains why such a policy was introduced. In this case, the reasoned justification talks about preventing settlements from merging and preventing unnecessary intrusion into the countryside.

17. In this case, it is common ground between the parties that the development would not cause harm to the character and appearance of the countryside. I do not disagree given the position, scale and design of the proposed dwelling. Furthermore, and taking into account the fact the proposed dwelling would be located between existing and consented development as 'infill', one could not on any reasonable basis conclude that the proposal would lead to a merging of settlements. In the context of the above, I am satisfied that the proposal would accord with the countryside protection and design requirements of the Framework, namely paragraphs 127 and 170 b).

18. The Council claim that the site is not in an accessible location. I acknowledge that when the Council approved outline planning permission for the two dwellings adjacent to the site it could not demonstrate a deliverable five year supply of housing sites. Consequently, the decision to approve planning permission was made on a balanced basis and in the knowledge that there was some conflict with LP policies. Nonetheless, in determining such a planning application it cannot be ignored that the Council commented that '*the site is next to a small group of existing dwellings, close to Bedlington's new outer edge and a short walk from bus stops that provide at least hourly service for most of the day. In this respect the proposed development also has some sustainability factors in its favour'.*

19. As part of my site visit, I was able to consider the location of the appeal site relative to the nearby settlements. I was also able to look at the potential to walk to the facilities and services as outlined by the appellant including the Netherton Workmans Club; the Co-operative foodstore; primary and secondary schools and bus stops all of which are relatively close to the site. Both Netherton Lane and the B1331 have footpaths and are lit. Taking all of these factors into account, and the evidence that is before me, I am satisfied that the site is in an accessible location. A number of local facilities and services could be safely reached on foot and reasonable bus service provision would be available for journeys that are further afield.

20. Given the above, I do not consider that the occupiers of the proposed dwelling would be heavily reliant on the private motor vehicle for all journeys. It would be possible to walk or cycle in respect of some day to day trips or to use public transport. In reaching this view, I also note that paragraph 103 of the Framework states that *'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'.*

21. In conclusion, and for the reasons outlined above, the proposal would not accord with Policy GP1 Part C of the LP. However, this policy is out of date in

so far that it is not consistent with the less restrictive rural housing policy as outlined in the Framework. Consequently, I afford the conflict with policy GP1 only limited weight in the overall planning balance. Weighed against this is the fact that the proposal would not conflict with the rural housing and accessibility requirements of the Framework. Indeed, the development would not be isolated; there would be no adverse harm caused to the character and appearance of the countryside, and the appeal site is in an accessible location. In respect of the latter consideration, the proposal would not therefore conflict with the accessibility requirements of Policy T4 of the LP.

22. The proposal's accordance with the rural housing policy and accessibility requirements of the Framework is a material consideration of significant weight and is one which outweighs the limited weight to which I afford the conflict with Policy GP1 of the LP.

SSSIs and protected European sites.

23. The appeal site is within 10 km of the coast which includes SSSIs and protected European sites. The Council has referred me to the Northumberland Coastal Mitigation Service Strategy Document 2018 (NCMSSD) which has been agreed with Natural England. Refence to the 'Coastal Mitigation Service' is included in the Council's appeal statement.

24. The NCMSSD sets out the strategy, the mitigation measures to be implemented within the designated sites, monitoring and reporting arrangements and proposed governance arrangements. The Strategy specifically addresses the impacts caused by increased recreational activity arising from new housing and tourism developments. I have not been provided with any good reason as to why I should not afford the NCMSSD significant weight as a material planning consideration for the purposes of determining this appeal.

25. Other than a short length of coast around Lynemouth Power Station, the whole of the Northumberland coast below the high tide mark is protected as a Site of Special Scientific Interest because it is inhabited by populations of wading birds which are of national importance. The particular species for which it is designated are redshank, golden plover, turnstone, purple sandpiper, sanderling and ringed plover. Different populations of these species use the coast when they are on migration in spring and autumn or as their wintering grounds, and so are present between late July and May. Much of the coast is also within Special Protection Areas, which are designated because of their international importance for bird species. These include areas of rocky shore of importance for purple sandpiper and turnstone, areas of sandy shore used for nesting by little tern and arctic tern and the extensive mud and sandflats from Budle Bay north to Goswick of international importance for a wide range of wading birds and wildfowl.

26. Many of the sand dunes on the Northumberland coast are also designated as Sites of Special Scientific Interest because they are of national importance for the communities of wild plants that they support, and some of these sites are also designated as Special Areas of Conservation because they are of international importance for these plant communities. The conservation objectives of the aforementioned sites aim to ensure that their integrity is maintained or restored as appropriate.

27. In this case, and taking into account the information in the NCMSSD, I am satisfied that the proposal would be likely to lead to recreational pressure in terms of the use of the aforementioned protected areas. I consider that the effects of the proposed dwelling, both on its own and in combination with other development projects, is such that it is likely to have significant effects on protected coastal areas, particularly from walking. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development.

28. I am satisfied that the NCMSSD includes appropriate mitigation for the site specific effects of the proposal on the protected sites. This would be in the form of a financial contribution to be paid to the Council to assist with the on-going funding of a warden presence on the coast. The aim of contributing to the warden service is to modify people's behaviour through awareness-raising and education, focussing on high-risk activities such as off-lead dog walking, so that users can develop a clear understanding of how to enjoy the coast while minimising disturbance. It also includes activities such as guided walks, to increase appreciation of the wildlife of the Northumberland coast and understanding of its significance. In addition to a physical presence on the coast, the wardens will develop a website and social media presence to keep promoting and reinforcing seasonally specific information such as the arrival of autumn migrants or the importance of winter hightide roosts.

29. In this case, I cannot conclude that the proposal would not have an adverse effect on the integrity of coastal SSSIs and protected European sites. This is because there is no mechanism in place by which the required mitigation can be secured and controlled. In particular, there is no mechanism in place (e.g. Section 106 agreement) in respect of a financial contribution to be used towards a warden service on the coast in accordance with the mitigation strategy as outlined in the NCMSSD. Consequently, I conclude that the proposal would not accord with Policy GP8 of the LP or with paragraph 175 of the Framework.

30. In reaching the above conclusion, the evidence before me indicates that in approving planning permission for the two dwellings adjacent to the site, the Council did not require any mitigation in respect of the effect of such development on coastal protected sites. I cannot be certain why this decision was reached, but I do note that the NCMSSD is dated December 2018 and the outline planning permission for the two dwellings is dated July 2017. In any event, I have determined this appeal on its individual planning merits and on the basis of the evidence that is before me. I acknowledge the appellant's comment that the occupiers of the proposed dwelling may use local public footpaths for dog walking. That may be a possibility on occasion, but that does not mean that there would not be a likelihood of the occupiers of the dwelling visiting the coast and indeed adding to additional recreational pressures in such areas. Consequently, none of these matters alter my conclusion on this main issue.

Other Considerations

31. The evidence before me indicates that the site is previously developed. Indeed, there is the remains of a concrete base on the site. The fact that the proposal would make use of a previously developed site, as distinct from a

greenfield site, is a positive, yet not determinative matter to weigh in the planning balance.

32. The proposal would seek to add to the supply of houses in the area. However, that contribution would be limited to only one dwelling and there is no dispute between the parties in respect of the Council's claim that it can demonstrate 11.2 years housing land supply, as per the Northumberland Strategic Housing Land Availability Assessment September 2019, and that Housing Delivery Test targets have been met.

33. I do not doubt that the occupiers of the proposed dwelling would help to support local facilities and amenities in the area, although such positive effects would be relatively limited from one dwelling. There would be some employment at construction stage, although this would be a short term benefit.

34. The appellant has commented that the site would be left *'poorly maintained'* if planning permission was not approved. That need not be an inevitable consequence and, in any event, this is not a matter which would outweigh or alter my overall conclusion on the main issues.

Overall Conclusion

35. The proposal would fail to accord with Policy GP1 of the LP. This weighs against allowing the proposal. However, the conflict with this policy is afforded only moderate weight as it is not entirely consistent with the rural housing policy in the Framework which is a material planning consideration.

36. When the proposal is considered against rural housing policy in the Framework, I have found that there would be no conflict with it. In addition, I have also found that the appeal site is in an accessible location: in this regard, there would be no conflict with the environmental sustainability requirements of the Framework or the LP.

37. Notwithstanding the above and noting that the proposal would deliver some limited benefits as outlined in the other considerations above, I have concluded that the proposal would be likely to have a significant adverse effect on the integrity of coastal protected sites. Whilst I am satisfied that the mitigation as outlined in the NCMSSD would adequately address the site specific effects of the development proposal on these designated sites, there is nonetheless no controlling mechanism before me to secure such necessary mitigation. I conclude that this is a matter of overriding concern and provides a clear reason for refusing the development proposed. Therefore, and taking into account all other matters raised, the appeal should be dismissed.

D Hartley

INSPECTOR