
Appeal Decision

Site visit made on 28 January 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2020

Appeal Ref: APP/N1350/W/19/3240897

Land north of Stockton Road, Sadberge DL2 1SS

- 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 Paul Vickers, Enterpen Ltd, SJS Potts Ltd against the decision of Darlington Borough Council.
 - The application Ref: 18/00994/FUL, dated 25 October 2018, was refused by notice dated 21 October 2019.
 - The development proposed is the erection of 25 dwellings (including 3 affordable).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the proposal on highway safety; (ii) whether it would be in a suitable location for housing with regard to the effect on the character and appearance of the area; (iii) the effect on the setting of the Sadberge Conservation Area; (iv) the effect on the living conditions of the future occupiers of the proposal by way of outlook, light, privacy and noise; and (v) biodiversity considerations.

Reasons

Highway Safety

3. The proposal would be accessed via new junction onto Stockton Road. It would be intended that this part of Stockton Road would have its speed limit reduced to 50 miles per hour (mph) from the current 60 mph. The internal access road, with a short cul-de-sac and a turning head, would then serve all the proposed dwellings as regards vehicular access. Off-street car parking would be provided by way of a combination of driveway and garage spaces.
4. The 'site plan – as proposed' has been through a number of iterations in order to try to address the concerns that have been expressed by the Council's Highway Officer. The outstanding matters that are set out in the Planning Officer Report relate to an increased radius to the carriageway and a design that rationalises the 90-degree bend to the front of Plot 22 demonstrating the required forward visibility; and amendments to parking spaces and driveways to ensure that they meet the minimum accepted standards.

5. The bend to the front of Plot 22, as it is on a corner, would be tight in terms of vehicles attempting to pass one another. The swept path analysis shows that if a larger vehicle was attempting to get around that corner, there would be little room for a vehicle coming the other way. There would be the potential for conflict between vehicles.
6. Such issues with manoeuvrability would be exacerbated if vehicles attempt to park on the road, due to insufficient levels of parking spaces and driveways to the Council's usual standards. Parking part on footways would raise concerns for pedestrian safety. Nor is this a location where having lower levels of parking would be likely to have the benefit of promoting other modes of transport with the limited local services there are in Sadberge and the restricted public transport options.
7. I conclude that the effect of the proposal on highway safety would be unacceptable. As such, the proposal would not comply with Policies CS2 and CS19 of the CS where these concern providing vehicular access and parking suitable for its use and location, and making the best use of and improving transport infrastructure. It would also not accord with the National Planning Policy Framework (Framework) where it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, amongst other considerations.

Character and Appearance

8. The appeal site consists of part of a field. The site boundary to Stockton Road is defined by a hedgerow. The boundaries to a track to the west of the site and a public open space area to the north are defined by low fencing, hedgerows and occasional trees. The remaining boundary with the rest of the field is undefined. There is a small pond on the site nearest the boundary with Stockton Road.
9. Beyond the adjacent track and public open space area lies the extent of the existing development in Sadberge. This consists of fairly modern housing which is found at a higher land level than the site. The remaining land in the vicinity of the site outside of Sadberge is mainly countryside, along with the A66 where it bypasses the village.
10. The site lies outside of the development limit of Sadberge under the Borough of Darlington Local Plan (1997) (LP) and so for the purposes of the LP it is in the countryside. Saved Policy E2 states that most new development will for the plan period be located inside the development limits defined on the Proposals Map. The supporting text goes on to say that the Council has defined development limits, within which most new development will be located, with the intention of maintaining these well-defined boundaries and safeguarding the character and appearance of the countryside.
11. Saved Policy H7 sets out where new housing development will be permitted in the countryside. The proposal does not conform to the types of residential development that are listed in the policy.
12. Policy CS1 of the Darlington Local Development Framework Core Strategy (2011) (CS) supports development within the limits of villages. Outside of the limits, development will be limited to that required to meet identified rural needs. Policies CS2 and CS14 of the CS concern high quality design, including

- positively contributing to the character of the local area and its sense of place, and promoting local character and distinctiveness.
13. The site's character is informed by the countryside, in particular as it is part of a larger field and with other farmland in its vicinity. It is, however, also located in close proximity to the existing development in Sadberge to both its western and northern sides. There is limited separation provided by the track and the public open space area. The proposal would, in effect, 'round off' development on this side of the village between the existing development and Stockton Road. Where the proposed dwellings would abut the rest of the field this would be softened by a planted buffer, as well as by the rear gardens of those properties.
 14. Taking these factors together, the effect on the character and appearance of the area as regards the countryside would be of a limited nature, when the proposed dwellings and the associated infrastructure are considered. As the site would be approached along Stockton Road from the east, the majority of the proposed dwellings would be set back and whilst they would be visible over the hedgerow this would be against the backdrop of the existing development in Sadberge. The design and layout would not be unacceptable in this regard.
 15. Accordingly, I conclude that the proposal would be in a suitable location for housing with regard to the effect on the character and appearance of the area. Hence, it would comply in this regard with Saved Policy E2 and Policies CS1, CS2 and CS14. Saved Policy E2 and Policy CS1 do not act as a moratorium to housing development of the type proposed in such a location, even though the proposal would be beyond the existing development limit.
 16. The proposal would not comply with Saved Policy H7 for the reason that I have set out. The Framework does not, though, take such a restrictive approach as regards the types of residential development that are permitted in the countryside. As such, Saved Policy H7 is not consistent with the Framework and so the conflict with the policy attracts limited weight in my decision.
 17. As the proposal would not have an unacceptable effect on the character and appearance of the countryside, it would also accord with paragraph 170 of the Framework, as well as because it would achieve well designed places. It would also comply with related guidance in the Council's Revised Design of New Development Supplementary Planning Document (2011) (SPD) concerning high standards of design.

Conservation Area

18. The boundary of the conservation area lies further up Stockton Road towards the village centre and includes part of a field that is on the opposite side of the road, which the main parties have referred to as the triangular field. The conservation area is focussed on a village green in the centre of the village and the arrangement of generally traditional buildings positioned around it, as well as a nearby church. The triangular field plays a constituent role in its significance, with its proximity to the centre. A particular feature of the conservation area is that it sits on a ridge with the land levels dropping on all sides which, in places, afford views of its generally rural hinterland.

19. The site is separated from the nearest part of the conservation area boundary by the rear gardens of more modern residential development. Both sides of Stockton Road up to the boundary also contain extensive planting.
20. There is limited inter-visibility between the site and the conservation area. As the site is approached from Stockton Road to the east, it can be viewed with the triangular field, but this is only really apparent some distance away, near to the A66. As such, the site does not perform a significant function as a gateway to the conservation area. Much of the more modern development on this side of Sadberge is also visible at this point. The proposal would be seen amidst this existing development, rather than with the triangular field. This would also satisfactorily lessen impacts arising from the materials, density, scale and massing of the proposed dwellings.
21. In addition, where there are views over the more rural aspects of the landscape from the centre of the village, this does not include the site because of the intervening buildings. The open agricultural land around the built form of the settlement is an important constituent in the significance of this ridge village. However, the contribution the site makes to the significance of the setting of the conservation area is of a minimal nature. I do not find harm would result from the proposal in this regard. Even if the statutory duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applied to setting, it would preserve or enhance the character or appearance of the conservation area.
22. I conclude that the proposal would not have an unacceptable effect on the setting of the conservation area. As a consequence, it would comply with Policy CS14 where it concerns protecting, enhancing and promoting the quality and integrity of Darlington's distinctive designated national or nationally significant built heritage. It would also accord with the Framework as regards the strong level of protection it affords designated heritage assets, including that great weight should be given to the asset's conservation.

Living Conditions

23. The SPD provides guidance on the minimum acceptable distances there should be between dwellings. The Council are concerned that the proposed layout falls short in several respects in relation to the effect on the living conditions of the future occupiers of the proposal, particularly in terms of distances between elevations containing habitable rooms. However, there is limited information before me on the plots where this would cause concern, or what particular aspect of living conditions would be affected. Nevertheless, I have considered outlook, light and privacy as the SPD makes particular reference to these matters. The SPD also acknowledges there is a need to analyse the site's context and its local character.
24. Most of the proposed dwellings would be set out in a fairly conventional manner, side by side and facing other dwellings on the opposite side of the roadways. This would not raise particular issues as regards outlook, light and privacy. There is a different arrangement on some of the corner plots and around the turning head where the main internal access route would terminate. Whilst this may result in the distances in the SPD not being strictly adhered to, it would not be to the extent that it would render the proposal unacceptable by way of outlook, light and privacy.

25. In relation to noise, the Council are concerned with the effect from road traffic on the use of the nearest proposed garden areas, in particular. It was apparent, though, from my site visit that as traffic on Stockton Road is relatively intermittent, so would the effect be from noise, even at the current speed limit.
26. The 'site plan as proposed' indicates there would also be an acoustic fence along this boundary. Its precise specification and siting, including allowing for the retention of the hedgerow, could be dealt with by way of the imposition of a planning condition, if I was minded to allow the appeal. Alternative potential layouts for the proposed dwellings are not for my consideration. I accept there is limited information on noise levels, but with the site circumstances and mitigation, it would not be unacceptable in this respect.
27. I conclude that the proposal would not have an unacceptable effect on the living conditions of the future occupiers of the proposal by way of outlook, light, privacy and noise. Therefore, it would comply with Policy CS2 in this regard and, as regards noise pollution, with Policy CS16. It would also accord with paragraph 127 of the Framework where it concerns a high standard of amenity for existing and future users. Although it would not technically comply with the separation distances, it would in overall terms comply with the SPD as far as its design would lead to reasonable living conditions.

Biodiversity

28. The dominant habitat on the site is improved grassland. Other biodiversity features include the pond, hedgerows and trees. The Preliminary Ecological Appraisal Report (Ecology Report) indicates that the most significant ecological impact would be the loss of hedgerows along Stockton Road to enable site access. The Council do not appear to take any particular issue with these findings.
29. The Ecology Report goes on to set out a number of mitigation options so as to avoid, reduce and compensate for the scale of the impact. These include planting both locally appropriate native species in areas of communal greenspace and broad structurally diverse, native, species-rich hedgerows with native trees along the site and plot boundaries, where feasible. Other measures include creating wildlife friendly garden habitats, bat roosts and bird nest sites, and pond related mitigation, amongst other options.
30. When these mitigation options are considered, the proposal would not result in a net overall loss of biodiversity and would have the potential to strengthen biodiversity and adequately demonstrates mitigation. In terms of the Council's concern that this approach is not specific enough, this could be achieved through a planning condition, if I was minded to allow the appeal.
31. I conclude that the effect on biodiversity interests would not be unacceptable. Hence, it would comply with Policy CS15 of the CS where it seeks to ensure that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping, amongst other considerations.
32. It would also comply with paragraphs 170 and 175 of the Framework in this regard, where they concern minimising impacts on and providing net gains for

biodiversity, and avoiding significant harm to biodiversity resulting from a development.

Planning Balance

33. The proposal would make a contribution towards the Government's objective of significantly boosting the supply of homes and it would provide for a housing mix. There would also be economic benefits during construction, and with the spend of the future occupiers and through receipts that the Council would receive. Public open space would be provided on site in association with the pond feature and residents would also have the benefit of using the public open space adjacent to the site. The proposal would also support local and community services. Biodiversity gain measures are also proposed.
34. What services there are in Sadberge, are of a restricted nature. With the limited bus service and the distance to the nearest train station, it is also not a location which readily permits access to larger settlements with a broader range of services that the future occupiers would need for their day to day needs, other than by the car. The appellant is proposing a contribution to the local bus service but, as with the play provision contribution that has been offered, the potential for this to be a benefit is tempered somewhat because there is not an effective mechanism for their delivery in the absence of an executed planning obligation.
35. It is also intended that a contribution would be made to the equivalent of 3 affordable housing units. The Council has stated this is below what would usually be expected from such a proposal. The viability evidence I have before me is of a limited nature to justify the provision. I see no substantive reason to depart from the Council's usual standards. Under the Framework, it is for the Council to set the appropriate level of provision and, based on the information before me, the proposal would not be in accordance in this respect. Again, there is not an effective mechanism before me for the delivery of affordable housing. I find that the affordable housing approach does not favour the proposal.
36. I have been referred to the Council's Housing and Employment Land Availability Assessment (March 2018) (HELAA). As the HELAA states, it is to inform local plan preparation and all planning applications will continue to be determined against the appropriate development plan and other relevant material considerations. In any event, I have found the site is in a suitable location for housing with regard to the effect on the character and appearance of the area.
37. Where I have not found harm, these matters attract neutral weight. The other developments that I have been referred to have a limited bearing on my decision, as each is to be considered on its own merits.
38. The proposal would also not accord with the presumption in favour of sustainable development, as is set out in paragraph 11 of the Framework, because policies referred to in the Council's refusal reasons may reasonably be referred to as those 'most important' for determining the application, including where I find there is conflict. The Framework is clear that policies should not be treated as out of date simply because of their age or because the development plan is time expired. Apart from 'Saved' Policy H7, the policies are not out of date as they are consistent with the Framework. In this regard,

I have considered the appeal decisions that both main parties have referred me to.

39. I have taken into account the relevant matters in relation to the economic, social and environmental objectives of the Framework, as set out above, notwithstanding these are not criteria against which every decision can or should be judged.
40. In relation to the harm that would arise, this relates to highway safety matters. There are also concerns over the proposed approach to the delivery of affordable housing, based on the information before me. These matters attract significant weight in my decision. Set against this would be the benefits that I have set out. The contribution to the supply of housing attracts moderate weight. All other benefits attract no more than limited weight. The harm that would arise would not be outweighed by the benefits.

Conclusion

41. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Accordingly, the appeal should be dismissed.

Darren Hendley

INSPECTOR