
Appeal Decision

Site visit made on 26 May 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2020

Appeal Ref: APP/X1355/W/20/3246032

**Land south of Oliver Crescent (at West Farm), Shadforth, County Durham
DH6 1LL**

- 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 Joseph Gatenby, Mr J W & Mrs M A Gatenby against the decision of Durham County Council.
 - The application Ref: DM/19/00718/OUT, dated 1 March 2019, was refused by notice dated 8 November 2019.
 - The development proposed is an outline application for residential development of up to 9 dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline form with all matters reserved for future consideration. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.

Main Issues

3. The main issues are (i) whether the proposal would preserve or enhance the character or appearance of the Shadforth Conservation Area; (ii) the effect on archaeological remains; and (iii) the effect on the living conditions of the future occupiers of the proposal by way of noise, odour and light.

Reasons

Conservation Area

4. The site comprises part of a field which is in use for the grazing of horses. The boundary with the rest of the field is undefined. On both sides, it is enclosed by mature hedgerows. West Farm lies to the west. The northern boundary of the site forms the established settlement edge of Shadforth, beyond which is housing. Otherwise, the site is found within a distinctly rural landscape.
5. The site lies within the Shadforth Conservation Area. This designated heritage asset covers a large area of land so that it takes in both the built form of the village and its countryside surroundings. This reflects that the landscape setting of the village forms an important part of its significance. It takes the form of rolling and largely open farmland, with hedgerows and occasional

mature trees. The landscape setting of the village referred to in the Council report that made way for the designation appears largely intact, with limited amounts of built development that mainly relate to farmsteads, including West Farm.

6. The site performs an important role in this regard because of its undeveloped and open appearance. It forms part of the landscape setting up to the clearly defined boundary with the existing dwellings on the edge of the village. Hence, the site contributes pleasingly to the rural character of the conservation area as part of the setting of the village, and this is where it contributes towards the significance.
7. The proposal would substantially alter these qualities of the site due to the loss of its undeveloped open character for up to 9 dwellings and the associated infrastructure. In this context, it would constitute a significant encroachment into both the field and the wider landscape setting by extending the village into the countryside. Nor would it constitute a form of development that is characteristic of this landscape setting. As a consequence, it would markedly reduce the site's contribution to the significance.
8. The visual effects of the proposal would also be apparent from the network of public rights of way (PROW) around the village, in particular to the south and east, along with from the road approach from the south-east, as I observed on my site visit. From these public vantage points, the expansion of the village that would result would cause undue harm to the local character, protruding out from the backdrop of the existing dwellings in the village. I am less persuaded that it would have an unacceptable effect in the foreground setting of Durham Cathedral, with the separation distance involved. Nevertheless, this would not address the more localised visual impacts. In coming to this view, I have considered the viewpoint analysis that the appellant has provided.
9. In what are the largely undeveloped surroundings to the village, the proposal would be a noticeable and detrimental change. In addition, it would also harm the open views out of the village into the landscape setting from the end of Oliver Crescent because the open countryside attributes of the field would be undoubtably diminished.
10. I am mindful that the site area has been reduced to lessen the extent that the proposal would project out into the countryside, and that open space and landscaping is envisaged in order to soften the overall visual effects. These measures would not, though, adequately address that as the proposal would extend the village out, it would erode the qualities that I have identified. Similarly, that the appellant considers the proposal would improve built design standards would not overcome the infringement of development beyond what is a distinct boundary between the built form of the village and its landscape setting.
11. Whether or not there is sufficient information to make an assessment of the effect on the conservation area is a matter of dispute between the main parties. The onus is on the appellant to provide sufficient information, under paragraph 189 of the National Planning Policy Framework (Framework). There is not an abundance of information on the significance of the conservation area but, nevertheless, when the appellant's evidence is considered in the round it enables me to make a reasoned assessment. For the reasons that I have set out, this does not favour the proposal.

12. The appellant has also questioned the veracity of the conservation area designation in terms of the significance of the asset and the separation of the site from the historic core, amidst other related points. As I have set out above, the landscape setting of the village remains largely intact as an important aspect of the significance of the conservation area, including the contribution of the site.
13. I am required to have special regard to the statutory duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Having regard to the above, the proposal would not preserve or enhance the character or appearance of the conservation area. This weighs considerably against the proposal.
14. It would also not comply with Saved Policy E22 of the City of Durham Local Plan (2004) which seeks to preserve or enhance the character or appearance of the conservation areas within the city of Durham, including by not permitting development proposals which would detract from the character or appearance of the conservation area, amongst other considerations. For the purposes of paragraph 196 of the Framework, 'less than substantial' harm would arise to the significance of a designated heritage asset.

Archaeological Remains

15. The appellant's Geophysical Survey indicates that there are traces of former ridge and furrow cultivation on the site. This reflects its historical significance in a largely agricultural landscape which forms the setting for the village. With this archaeological interest, it constitutes a non-designated heritage asset for the purposes of the Framework.
16. As archaeological remains are likely to be present, the effect of the proposal without mitigation would be likely to diminish from the significance of the non-designated asset. Further work would need to be done to establish the extent of the remains on the site, such as through trial trench evaluation, for the mitigation to be effective.
17. Such information is not, though, before me. Without it, there is a risk that a planning condition concerning these details could, in effect, nullify a planning permission if it transpires that the archaeological remains would impact on the potential to implement the proposal, if I was minded to allow the appeal.
18. In the absence of sufficient information to satisfy such concerns, I conclude that the effect of the proposal on a non-designated heritage asset, the archaeological remains, would be unacceptable. Thus, it would not comply with paragraph 189 of the Framework in this respect.

Living Conditions

19. The nearest part of West Farm to the site comprises a ménage. Beyond, there are a number of associated structures and buildings. The part of West Farm that is nearest the site is not intensively used as it is related to the outdoor equestrian activities.
20. As such, noise and odour from such activities would be unlikely to lead to an undue effect on the living conditions of the future occupiers. Nor does the ménage appear to be lit, in respect of the potential for effects caused by light pollution. Whilst some of the proposed dwellings would be nearer to these

activities than the existing dwellings in the village, the relationship with the equestrian use would not be untypical for a rural area.

21. Where there appears to be a greater level of activity at West Farm is where the buildings are sited and the associated hard standings. These are well separated from the site and access to these buildings is taken from the opposite end of the farm complex. Accordingly, this relationship with the proposal would not cause untoward effects due to noise, odour and light on its future occupiers.
22. The Council has cited a lack of information in these respects by the appellant. When the site characteristics of West Farm are considered, a judgement can be ably made. It would also be within the scope of reserved matters to provide for the adequate protection of living conditions, if I was minded to allow the appeal, based on my findings above.
23. I conclude that the effect on the living conditions of the future occupiers of the proposal by way of noise, odour and light would not be unacceptable. Therefore, it would comply with paragraph 180 of the Framework where it concerns ensuring that new development is appropriate for its location taking into account the likely effects of pollution on living conditions, including noise and light.

Planning Balance

24. Where a proposal would lead to less than substantial harm to a designated heritage asset, paragraph 196 of the Framework states that the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
25. There is a dispute between the main parties over whether or not the Council can demonstrate a 5 year supply of deliverable housing sites. The most recent detailed evidence¹ I have is from the Council which considers the supply is 6.33 years, as of January 2020. I do not have alternative substantive evidence to the contrary. Nevertheless, this does not act as a ceiling to the supply of housing and the proposal would make a modest contribution towards both the Government's objective of significantly boosting the supply of homes under the Framework and alleviating supply concerns if it transpires in practice that the Covid-19 pandemic impacts on housing delivery.
26. The proposal would also contribute towards the delivery of smaller windfall sites under the Framework. There would also be economic benefits and the proposal would support local services. Whilst these details are not before me, it would also be intended that the proposal would incorporate biodiversity and open space, sustainable drainage systems, high quality designed dwellings with the potential for use of energy efficient systems, and a link to the local PROW network.
27. The appellant has cited the benefits of the self build nature of the proposal, notwithstanding there is a dispute between the main parties over whether or not there are sufficient opportunities for this type of housing in the Council area. The Framework is supportive of self build projects and there is an emphasis on planning authorities to ensure that adequate provision is made.

¹ Examination of County Durham Local Plan, Inspector's Note No. 19: Further Supplementary Questions for Matter 8: Five Year Housing Land Supply

This duty to grant planning permission is, however, concerned with suitable development. This would not be the case with the proposal due to the effect on the conservation area and the archaeological remains.

28. The public benefits would be on a limited scale, in particular when the number of additional proposed dwellings is considered. The optimum viable use concerns what causes the least harm to the significance of the asset. This would not be the proposal, compared to the current use. I am also mindful that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Overall, the public benefits would not outweigh the less than substantial harm, under the Framework.
29. As a result, the proposal would not accord with the presumption in favour of sustainable development, as is set out in paragraph 11 of the Framework, because the application of policies in the Framework that protect areas or assets of particular importance, related to designated heritage assets, namely the conservation area, provides a clear reason for refusing the development proposed.
30. In relation to the non-designated heritage asset, the archaeological remains contribute toward the historical significance of this agricultural landscape. Based on the evidence before me, there would be a loss of its significance. In taking a balanced judgement, this would not be outweighed by the benefits.
31. In the broader planning balance, I reach a similar overall conclusion. The proposal would not preserve or enhance the character or appearance of the conservation area and the effect on a non-designated heritage asset, the archaeological remains, would be unacceptable. These matters are decisive. The effect on the living conditions of the future occupiers of the proposal attracts neutral weight. The benefits that would arise would not outweigh the harm.

Conclusion

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

Darren Hendley

INSPECTOR