



Appeal Decision

Site visit made on 24 February 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2020

Appeal Ref: APP/X1355/W/19/3242623

Land to the north of 1 Agricultural Houses, Lane to Little Thorpe, Little Thorpe, Durham SR8 3UD.

- 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 M Forbes against the decision of Durham County Council.
 - The application Ref DM/18/03557/OUT, dated 20 November 2018, was refused by notice dated 6 June 2019.
 - The development proposed is erection of two dwelling houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all matters reserved apart from access and I have determined the appeal accordingly. The indicative plan (ref: SK02 rev D), which shows how 2 dwellings could be accommodated on the site, has been taken into account for illustrative purposes only.
3. The parties agree that the housing supply policies in the Easington District Local Plan (EDLP) do not reflect an up-to-date objective assessment of housing need in the area and must be considered out of date. Therefore, in respect of housing land supply, the housing policies in the EDLP which are most important for determining the appeal are out of date. The site is not one which would fall within footnote 6 of the National Planning Policy Framework (the Framework). Therefore, the provisions of paragraph 11 d) ii of the Framework are engaged and I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - (i) the effect of the development on the character and appearance of the area, and;
 - (ii) Whether the appeal site is a suitable location for residential development having regard to the accessibility of services and facilities.

Reasons

Character and appearance

5. Little Thorpe is a small hamlet located between Easington and Peterlee. It has developed as a settlement comprised of a modest number of dwellings set along both sides of a single cul-de-sac road. It consists of a mix of dwelling types with traditional and more recent development, with most of these properties facing the street frontage. A residential scheme, accessed at the entrance to Little Thorpe, is currently under construction. That scheme, which replaces former storage buildings, is located to the north of the street frontage with some dwellings behind properties facing the street. Despite this, the character of Little Thorpe derives from its attractive frontage development within mature landscaping set in open rolling countryside.
6. The appeal site is accessed via a private road, which incorporates a public right of way (PRoW), between two properties facing the street frontage. The PRoW extends diagonally across the appeal site where it joins the agricultural field to the north. It is bounded to the west by the housing development under construction. To the north and east the site is adjacent to agricultural land with the rear of properties facing Little Thorpe Lane to the south.
7. The illustrative layout gives an idea of how the PRoW could be diverted and the balance between the amount of land that would be occupied by built development as opposed to soft landscaping and green infrastructure.
8. The appeal site has a rural open character with a strong visual association with the adjoining agricultural land. There are long uninterrupted views over the rural landscape from the site to the village of Easington. Public access to the appeal site via the PRoW allows these views to be widely appreciated. Notwithstanding the in-depth development on the adjacent site, which replaces former storage buildings, the proposal would increase the quantum of in-depth development within the settlement.
9. The development of the site and the enclosure of the footpath would detract from the rural setting of Little Thorpe and would have an urbanising effect on the land. These effects would be seen from the footpath network to the north of Little Thorpe. The spacious setting of the PRoW and the open views that can be appreciated from it would be lost. In addition, the appeal site makes a positive contribution to the appreciation of Little Thorpe's historic settlement pattern because of the location of the PRoW and because of the views the PRoW affords towards the village and the open countryside.
10. Given the above, I find that the proposed development would detract from the rural character of the area and the setting of the PRoW. The effects of the proposal on the character and appearance of the area would be significant and adverse and, in my opinion, could not be overcome at 'reserved matters' stage as suggested by the appellant.
11. I have noted the evidence, including the legal opinion, that the site is previously developed Land (PDL). I am mindful that the definition of PDL in the Framework includes the curtilage of developed land. However, the definition indicates that it should not be assumed that the whole of the curtilage should be developed. I have noted the historic information that shows the location of

buildings. It appears to me that the appeal site, for the most part, was never itself developed. Indeed, as the PRoW extends across the land it is likely that this area has been kept sufficiently clear to allow appropriate use of the PRoW. In this case, I consider that even if the site has the status of PDL it has largely remained undeveloped and its open and undeveloped appearance contributes to the character and appearance of the area.

12. I accept that the proposed development could include new landscaped boundaries. However, I note the aerial views provided show that the boundary of the adjacent development largely reflects the siting of the former storage buildings. It appears that the completion of the adjacent development will result in a boundary that reflect the previous built form. However, this would not be the case with the appeal proposal.
13. The appellant has referred to Policy 6 of the emerging Local plan. Bearing in mind the stage of preparation of the emerging plan this policy carries little weight. Even if this were not the case, the text to the policy explains that its purpose is to seek to ensure that new development does not detract from the existing form and character of settlements and will not be harmful to their surroundings. As such the development would not accord with the provisions of this policy.
14. Overall, the proposal would result in significant harm to the character and appearance of the area and would conflict with the Framework in so far as it seeks to achieve well designed places and seeks to ensure that development contributes to and enhances the natural and local environment by recognising the intrinsic character and beauty of the countryside.
15. Although Policies 1, 3 and 35 of the EDLP are largely out of date in so far as they relate to housing land supply, these policies seek, among other things, a high standard of design and to protect landscape character and public rights of way. In these respects, the policies conform to the objectives of the Framework. Accordingly, I attach substantial weight to the policies with regard to these matters and find the proposed development conflicts with them.

Access to services and facilities

16. The Framework promotes sustainable development in rural areas by, among other things, requiring housing to be located where it will enhance or maintain the vitality of rural communities. It acknowledges that where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 103 of the Framework also acknowledges that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
17. Little Thorpe has no services or facilities. The site is about 1 km from Easington Village and 2 km from Peterlee. Both these settlements have a good range of shops and facilities. There are bus stops at the entrance to Little Thorpe that provide regular services to both Peterlee and Easington. There is a footway for the most part along the street frontage within Little Thorpe and a lit footpath beyond, through to Easington. There are public footpaths from Little Thorpe that provide recreational walking opportunities, a more direct walking route into Easington and a further footpath in the direction of Peterlee.

18. Although it is likely that these alternatives would not provide for all the trips from the site, they provide realistic opportunities to access services and facilities by other means than the car.
19. I am mindful that there is a residential development under construction on the adjacent site. Although the access to that site is closer to the bus stop and about 200 metres further towards Easington there are few practical differences between the accessibility of the appeal site and the adjacent development. The appellant has highlighted that in considering that scheme the services in Easington were seen to be accessible.
20. I acknowledge that the planning policy background has changed since the consideration of the adjacent site. However, considering the more recent development within the settlement, together with my own observations about the site's accessibility, I consider that the appeal site would be a suitable location for residential development having regard to the accessibility of services and facilities.
21. I am aware of the conclusions of the Braintree judgement¹ and I am satisfied that the site could not be termed isolated and that paragraph 79 of the Framework is not relevant to my consideration in this case.
22. Overall, I find that the development would accord with the Framework with regard to the appeal site's accessibility to services and facilities. Policy 36 of the EDLP seeks to ensure good access and to encourage alternative means of travel to the private car. In so far as Policy 36 supports the objectives of the Framework I attach substantial weight to it, and I find that the development accords with Policy 36.

Other Matters

23. The appellant raises concerns that the site could be used for fly tipping. I have no evidence before me that fly tipping has been a problem at the site to date or reason to suppose that it would be in the future. In any event fear of fly tipping on the site is not, of itself, a reason to justify the development.
24. The appellant refers to other Council decisions on housing sites in support of the appeal. I appreciate that there are comparisons to be made between the appeal site and these schemes in as much that they are located close to or at the edge of a settlement. However, in the specific appeal site circumstances, I consider that, for the reasons set out, the effects of the development on the character and appearance of the area would be significantly adverse, and the circumstances of these other sites do not lead me to a different conclusion.
25. In addition, although I note the letter of support for the scheme, my conclusions are not altered by the possibility that the site could provide for self-build development. The evidence before me indicates that the Council is providing for self-build housing. I give this matter limited weight in the planning balance.
26. Although chapter 11 of the Framework seeks to make effective use of land including by promoting the development of underused land it also recognises that some undeveloped land can perform many functions. Whilst the appellant

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610

suggests that the land is underutilised, on the contrary, I conclude that the PRoW through the site appears well used and the site plays an important role in connecting the community to adjacent settlements.

27. The appeal site is within the 6km buffer zone of the Durham Coast Special Area of Conservation (SAC). Likely significant effects on the features of interest of the protected site due to increased recreational use and other domestic activities associated with residential development in this location, or cumulatively with other schemes in the area, cannot be ruled out. The appellant has submitted a unilateral undertaking which provides a financial contribution of £1513.22 towards specific coastal access management measures. However, as I am dismissing the appeal for other reasons, I have not considered this matter further.
28. Nevertheless, I note that the appellant considers that a contribution towards management measures is a benefit of the scheme. The purpose of the contribution is to mitigate the effects of the development. The contribution is therefore neutral in the planning balance.

Planning Balance

29. Whilst it is agreed that in so far as the development plan policies refer to housing land supply they are out of date, I have found that in relation to the main issues Policies 1, 3, 35 and 36 of the EDLP are broadly consistent with the Framework.
30. The proposal would support the Framework objectives of significantly boosting the supply of homes and making effective use of land. It would provide housing, albeit on a limited scale, in an accessible location. The scheme would also result in a degree of economic gain to the area and provide more dwellings to the housing stock, that could be available for self-build, which would offer social benefits.
31. However, the development conflicts with the Framework where it requires development to contribute to and enhance the natural and local environment and be of good design, sympathetic to local character including the surrounding landscape setting.
32. Although I am satisfied that the site is sufficiently accessible to services and facilities, I have identified that the proposal would have significant adverse effects on the character and appearance of the area. As such, I find that the proposed development would conflict with the Framework when taken as a whole.

Conclusion

33. I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of providing two additional dwellings, when assessed against the policies in the development plan and the Framework taken as a whole.
34. Therefore, for the reasons set out above, the appeal is dismissed.

Diane Cragg

INSPECTOR

