The Planning Inspectorate

Appeal Decision

Site visit made on 23 June 2020 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2020

Appeal Ref: APP/P2935/W/19/3241813
Land West of Swarland First School, Leamington Lane, Swarland, Northumberland

- 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 and Mrs Brotherton against the decision of Northumberland County Council.
- The application Ref 19/00823/FUL, dated 6 March 2019, was refused by notice dated 7 November 2019.
- The development proposed is erection of 1 No. dwelling house (C3 use) plus new access.

Decision

1. The appeal is allowed and planning permission granted for the erection of 1 No. dwelling house (C3 use) plus new access at Land West of Swarland First School, Leamington Lane, Swarland, Northumberland in accordance with the terms of the application Reference 19/00823/FUL, dated 6 March 2019, subject to the conditions set out in the Schedule of Conditions for attached to this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:

    - Whether the appeal site is a suitable location for housing having regard to local planning policy; and
    - The effect of the proposed dwelling on the character and appearance of the surrounding landscape.

Reasons for the Recommendation

Planning Policy and Suitability of site

4. Within its statement the Council has referred to policies of the emerging Northumberland Local Plan (the ENLP), with particular reference to a defined settlement boundary for Swarland and a hierarchy of settlements within which

development will be supported. According to the officer report the ENLP is at the submission stage. However, it is not clear if there are any outstanding objections to it, no specific extracts of the policies themselves have been provided and it has yet to be examined by an Inspector. Consequently, in line with paragraph 48 of the National Planning Policy Framework (the Framework), little weight can be given to the ENLP in the determination of this appeal.

5. The development plan for the area is made up of the Alnwick District Wide Local Plan (1997) (the LP) and the Alnwick District Local Development Framework: Core Strategy Development Plan Document (2007) (the CS). Those plans are of some vintage and both pre-date the publication of the Framework. Policy S1 of the Core Strategy (CS) sets out a settlement hierarchy for the location and scale of new development and identifies Swarland as a Sustainable Village Centre. Whilst the application site is outside the settlement boundary identified in Policy H2 of the LP, this policy is not saved and is therefore not accorded any weight in the consideration of this appeal.

6. Policy S2 of the CS sets out a sequential approach for new development. As acknowledged by the Council in consideration of the application for the approved development on the adjacent site[1],the strict sequential approach with a blanket restriction on development beyond the existing limits of settlements is not entirely in conformity with the Framework and the Council acknowledges that limited weight can be given to sequential policies as a result. In particular, paragraph 78 of the Framework states that; '*To promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services*.' The Framework does not set a blanket restriction on development within the countryside.

7. Policy S14 states that all development in the open countryside must be sustainable in the context of Policy S3, and where the development is essential to support farming and other countryside-based enterprise and activity, promote recreation and supports the retention of sustainable communities or supports the conservation and enhancement of the countryside.

8. Policy S3 of the Alnwick Core Strategy outlines sustainability criteria that generally need to be satisfied before permission is granted for new development. These include that the development is accessible to homes, jobs, shops, services, the transport network and modes of transport other than the private car; that there is adequate existing or planned capacity in the physical and community infrastructure; any physical and environmental constraints can be mitigated; potential implications of flood risk have been assessed; there would be no significant adverse effects on the natural resources, environment, biodiversity and geo-diversity, cultural, historic and community assets of the district; and the new development would help to build communities by sustaining or providing community services and facilities, or through the provision of affordable housing to meet identified local need.

9. As stated in paragraph 5 above, Swarland is identified by policy S1 as a sustainable village centre and the Council were satisfied that the adjacent site was accessible to jobs, services, shops and means of transport other than the private car, so as to comply with policies S3 and S11. There is nothing to

[1] Application Ref: 15/02773/FUL- Land North West Of, Swarland First School, Leamington Lane, Swarland

indicate that the position in those respects has altered and I noted on my site visit the location of a bus stop adjacent to Swarland First School, just before the junction of Leamington Lane and The Avenue which is located about 300 metres from the site access. The Council does not explicitly suggest that the location is unsuitable in respect of the proximity to services and accessibility in their reason for refusal of the application which is subject of this appeal, and no reference is made to policy S11. The site location is not inconsistent with the aims of the Framework with regard to the accessibility. The appellant submitted a Drainage Strategy which the Local Lead Flood Authority finds satisfactory. The Council's Officer report also indicates that they consider that there will be no significant adverse effects on the natural resources, environment, biodiversity and geo-diversity in the area.

10. I recognise that the Council can demonstrate a five-year supply of housing land, but an additional dwelling would still make a small contribution to the provision of housing. Furthermore, paragraph 7.7 of the officer report into the approved scheme on the adjacent site made clear that there was a five-year supply at the time that scheme was approved and that there was no upper limit on housing provision (para 7.8). Consequently, there is no change in circumstances in that regard and the policy position isn't substantially different to 2015 when the adjacent house was approved. The site is located close to the settlement, directly next to other approved and existing buildings.

11. Consequently, given the limited weight that can be applied to the ENLP, the limited weight that can be applied to the locational strategy of the development plan on account of the inconsistency with current national guidance and the Council's own acknowledgement that the location would be broadly sustainable there would be no grounds to withhold planning permission on account of the location, of itself.

12. Having regard to the above, I find that the site is suitable for the proposed development and the provision of additional housing would support the retention of sustainable community of Swarland. Accordingly, I find no conflict with the Framework and Policy S14 of the CS which seeks amongst other things to ensure that new development outside the existing built up area is sustainable.

Character and Appearance

13. The appeal site is a piece of vegetated land currently used for equestrian purposes, located off Leamington Lane in Swarland. The surrounding area is rural, and its character is mostly derived from detached properties in a variety of designs. South of the site across Leamington Lane includes the properties off Percy Drive, a small modern estate predominantly made up of detached bungalows in a range of styles. The site is bounded by existing dwellings at Chesterhill Farm on the north west and Swarland First School to the east of the site. The proposal would be seen in the context of these developments as well as the adjacent approved scheme.

14. In effect, the land forming the appeal site is enclosed by existing development and features and it does not read as an open piece of countryside. Due to the position of adjacent existing development there are no significant views of open countryside and the proposed dwelling would not mark a significant departure from the existing pattern of development. When viewed from the limited number of public vantage points on Leamington Lane, the proposal would be

seen against the backdrop of Chesterhill Farms on approach from the east, and Swarland First School on approach from the west.

15. Consequently, the proposed dwelling would be read as a part of the existing built up area and would not result in a significant encroachment into the open countryside. In terms of scale, the outline of the proposal on the location plan does not appear to be of a larger scale than nearby Chesterhill Farm and the design of the proposal takes its cue from the adjacent approved scheme. As such, the proposed dwelling would not be visually intrusive or unacceptably prominent at this location. The planting of new hedgerows around the site as part of a landscaping scheme suggested by the appellant, could be controlled under a condition put forward by the Council. This would also help to soften the visual impact and help to assimilate the development into the surroundings on the fringe of the village.

16. When assessing the proposed dwelling on the neighbouring plot the Council concluded that there would be no landscape harm and that the proposal would comply with policy S13 of the CS due to the position of neighbouring development and the context of the site[2]. Given that the context of the current site is almost identical I see no reason to reach a different conclusion. In fact, the Council's previous decision to permit a dwelling on the adjacent site has added to the run of properties on the northern side of Leamington Lane which will give that part of the Lane a more enclosed feel. The addition of a single dwelling between that previously approved and the school will not substantially alter that character.

17. I find that proposal would not have a harmful impact on the landscape, character and sensitivity of the area and find no conflict with the National Planning Policy Framework (NPPF) and policies S13 and S16 of the CS which seek amongst other things to ensure that new development respect the prevailing landscape quality, character and sensitivity of each area and protect and enhance the local environment having regard to their layout, scale, appearance, access and landscaping.

Other Matters

18. The neighbour at Chesterhill Old Farm has referred to an appeal for a scheme of 20 houses that was dismissed[3]. However, that was of a substantially different scale of development and I have had regard to the specific circumstances of this site with regard to the proximity of adjacent buildings and the extant planning permission and find it to be acceptable.

19. Concerns have also been raised regarding highway safety stemming from access to and from the site. However, the Highway Authority assessed the proposal at the application stage and were satisfied that visibility splays at the entrance point were acceptable, having regard to recognised guidance in Manual for Streets, likely traffic speeds, and the alignment and gradient of the carriageway. Having viewed the entrance point on site I see no reason to reach a different conclusion and am satisfied that safe access would be provided for an additional dwelling which would generate low vehicle movements.

[2] Paragraph 7.16 of the Delegated Officer Report relating to application No. 15/02773/FUL
[3] Appeal Decision APP/P2935/W/16/3148687

Conditions

20. I have considered the conditions suggested by the Council and have attached those which meet the relevant tests, as set out at paragraph 55 of the National Planning Policy Framework, making changes to the wording, where necessary, in the interests of precision and clarity. The Council has sought a pre-commencement condition. Advice in the Planning Practice Guidance is clear that such conditions should only be used where there is a clear justification and that the timing for the submission of details is fundamental to the decision. Having considered the suggested condition, some of the details appear to be genuinely necessary 'prior to commencement' and I have amended the suggested wording to require the submission of details at appropriate stage.

21. The standard time limit condition has been imposed along with a condition specifying the relevant drawings as this provides certainty.

22. In order to reduce the chance of harm to a protected species from the outset of the development a condition which requires the submission of a method statement to avoid harm to amphibians to the LPA for written approval prior to commencement of development is necessary.

23. In order to prevent nuisance in the interests of residential amenity and highway safety, in accordance with the National Planning Policy Framework, a condition is necessary to ensure that development takes place in accordance with the Construction Method Statement, as submitted with the application.

24. In the interests of highway safety, conditions are necessary to prevent occupation of the proposed dwelling until the vehicular access to the site has been constructed in accordance with the approved plans and the car parking area indicated on the approved plans has been implemented. The Council have suggested another condition which requires the submission of details of the vehicular access prior to occupation of the proposed development. However, this condition is unnecessary given that these details are represented in approved plans.

25. In order to prevent surface water run-off in the interests of the amenity of the area and to ensure suitable drainage has been investigated for the development and implemented, a condition which requires implementation and thereafter maintenance in accordance with the approved surface water drainage scheme has been added.

26. In order to maintain and protect the landscape value of the area and to enhance the biodiversity value of the site, a condition is necessary which requires a detailed landscape planting plan to be carried out, utilising locally native species and including a native species hedge in accordance with details to be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development above damp proof course level. Also, a condition which requires retained hedgerows and trees, as shown on the proposed site plan, to be protected from root compaction during the course of construction is necessary in the interests of the character and appearance of the area.

27. In order to maintain the favourable conservation status of protected species, a condition is imposed to ensure implementation of the avoidance, mitigation and enhancement measures detailed in a scheme for the provision of integrated

bird boxes and bat boxes to be submitted and approved by the LPA prior to the commencement of development above damp proof course level. A condition to control lighting to avoid adverse effects on bats has also been added for the same reason.

Conclusion and Recommendation

28. As set out above, the proposal is contrary to the sequential policies of the CS on account of its position within the countryside. However, policies which defined settlement boundaries have not been saved and the Council acknowledges that the strict sequential approach of the CS is not fully consistent with the Framework. I also note that the Framework does not place a blanket restriction on housing development in the countryside. Accordingly, as accepted by the Council reduced weight can be given to those locational policies. Whilst reference has been made to emerging policies, little weight can be afforded to those in this instance for the reasons given.

29. The proposal is situated closely adjacent to the edge of the existing settlement, with access to associated services and would not cause harm to the surrounding landscape for the reasons described. It would make a small contribution to the supply of housing, assimilate well with surrounding built form and accord with the policies of the Framework taken as a whole. Having regard to those matters I find that the benefits of the proposal clearly outweigh the conflict with the development plan, having regard to the inconsistency of the CS with the policies of the Framework.

30. Accordingly, for the reasons given above and having had regard to evidence before me, I recommend that the appeal should be allowed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

31. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be allowed.

Chris Preston

INSPECTOR

Schedule 1 – Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Drawing No 1383-04 – Proposed Site Plan, Drawing No 1383-05D – Surface Water Drainage, Drawing No 1383-10 – Proposed Floor Plans, Drawing No 1383-20 – Proposed Elevations, Drawing No 1383-21 – Proposed Elevations, Drawing No N19157-290 Rev P3 – Drainage Strategy.

3. No development shall commence until a method statement to avoid harm to amphibians has been submitted to the LPA for written approval. The method statement shall detail measures to be taken to reduce the risk of potential harm to amphibians which may use the area. All areas with a risk of supporting amphibians shall be identified by an ecologist and shall only be cleared and developed in strict accordance with the approved method statement.

4. The development shall be carried out in accordance with the details submitted in the Construction Method Statement submitted with the application and associated plans shall be adhered to throughout the construction period.

5. Prior to the commencement of development above damp-proof course level a plan for the landscape planting of the site shall be submitted for the written approval of the LPA. The plan shall detail the species and number of trees, hedgerows, shrubs and use only Northumberland native species. Once approved the plan shall be implemented in full during the first planting season (November – March inclusive) following the commencement of development'.

6. Prior to the commencement of development above damp-proof course level a scheme for the provision of integrated bird boxes and bat boxes shall be submitted for the written approval of the LPA. The scheme shall detail the location, height, orientation, numbers and specification of bird nesting and bat roosting provision. The approved scheme shall be implemented in full prior to the dwellings being occupied.

7. The development shall not be occupied until the vehicular access to Leamington Lane (including the first 6.0m of access being hard surfaced with no loose or unbound materials) together with additional dropped kerbs to each side of the carriageway (forming a pedestrian crossing point to footway), has been constructed in accordance with the approved plans. Thereafter those facilities shall be retained accordingly.

8. The development shall not be occupied until the car parking area indicated on the approved plans, including any disabled car parking spaces contained therein, has been implemented in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

9. The development shall not be occupied until a surface water drainage scheme has been implemented in accordance with details that shall first be

submitted and and approved in writing by the Local Planning Authority. Once implemented, the drainage scheme shall thereafter be maintained in accordance with the approved details.

10. The lighting of the site shall be designed so that lighting levels are minimised in accordance with the document Bats and Lighting in the UK', Institute of Lighting Engineers and BCT, 2018. Lighting shall be low power, low level and directed away from boundary hedgerows and trees.

11. All retained hedgerows and trees that are shown on the proposed site plan are to be protected from root compaction during the course of the development works in accordance with the guidance set out in 'BS5837:2012 Trees in Relation to Design, Demolition and Construction: Recommendations' British Standards Institution, 2012.'

12. All trenches and excavations deeper than 0.30m left open overnight should have a ramp installed at an angle of no more than 45 degrees to allow the escape of entrapped mammals. Gaps shall be created and retained in all boundary fences to allow the passage of small mammals such as hedgehog. Gaps shall measure no less than 13cm by 13cm.