



Appeal Decision

Site visit made on 18 May 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 July 2020

Appeal Ref: APP/P2935/W/19/3244395

Land South of Dunstan Hall, Dunstan, Dunstan Village, Northumberland

Grid Ref: Easting: 424840 Grid Ref: Northing: 620023

- 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 C Benjamin against the decision of Northumberland County Council.
 - The application Ref: 19/01508/FUL, dated 12 July 2019, was refused by notice dated 9 December 2019.
 - The development proposed is the erection of 4no. bungalows.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Reference is made to the emerging Northumberland Local Plan, Publication Draft (Reg 19) (January 2019) (emerging NLP) in the Council's delegated report, but no policies from it are referred to in the decision notice. The Council has confirmed that the emerging NLP is still currently undergoing examination and has not yet been formally adopted; thus, I have given it limited weight.
3. Reference is made by interested parties to the emerging Craster Neighbourhood Plan (emerging CNP) which seeks to create only one policy - a principal residency restriction. The Council has confirmed that the emerging CNP has not yet been formally submitted for independent examination; as such, I have given it limited weight.
4. The application was originally submitted seeking outline planning permission for the development proposed¹. However, following advice from the Council, an application for full planning permission was then submitted. Comments by interested parties on both the outline application and the full application have been submitted by the Council as part of the appeal documentation. For the avoidance of doubt, I have had regard to the comments made on the full application.
5. A signed Unilateral Undertaking dated 19 March 2020 for £2,400, which would address the cost of coastal mitigation for four units, has been supplied by the appellant. I have had regard to this obligation in my consideration of the appeal.

¹ Application Ref: 19/01508/OUT.

6. The appeal site is located within the setting of listed buildings. Therefore, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
7. As the appeal site lies within an Area of Outstanding Natural Beauty (AONB) I have had regard to the statutory duty under section 85 of the Countryside and Rights of Way Act 2000.

Application for Costs

8. An application for costs was made by Mr C Benjamin against Northumberland County Council. This application is the subject of a separate Decision.

Main Issues

9. The main issues are:
 - the effect of the proposal on the character and appearance of the area, having regard to its distinctive landscape, Dunstan Village and the setting of the adjacent Grade II* and Grade II listed buildings; and
 - whether the proposal would provide a suitable location for residential development, having regard to planning policy.

Reasons

Background

10. The appeal site comprises a roughly rectangular parcel of land which forms part of an agricultural field on the outskirts of the Village of Dunstan. It is located immediately adjacent to existing bungalows which front onto, but are set back from, the U3014 road. The land is surrounded and partially enclosed by a combination of post and rail/wire fences, hedging and a thin belt of mature trees. Beyond the appeal site to the west are open pastoral fields.
11. The appeal site lies within about 100m of a group of Grade II* and Grade II listed buildings at Dunstan Hall and is located within the Northumberland Coast AONB. It is also sited within 10km of a number of internationally designated sites including, Northumbria Coast Special Protection Area (SPA), Northumbria Coast Ramsar site, Northumberland Marine SPA, North Northumberland Dunes Special Area of Conservation (SAC) and Berwickshire and North Northumberland Coast SAC; as well as nationally designated sites including, Northumberland Shore Site of Special Scientific Interest (SSSI), Howick to Seaton Point SSSI, Alnmouth Saltmarsh and Dunes SSSI, Warkworth Dunes and Saltmarsh SSSI and Castle Point to Cullernoise Point SSSI.
12. The proposal is for four detached one and a half storey dwellings. They would be constructed of natural stone and render with grey slate tiled roofs. Access would be gained via a private road off the U3014.

First Main Issue: Character and appearance of the area

Distinctive landscape

13. The appeal site is located within Character Area 6 of the Alnwick Landscape Character Supplementary Planning Document (ALC) 2010, which is identified as North East Farmed Coastal Plain. The ALC declares the key characteristics of this Character Area to be open, undulating mixed arable farmland with

occasional small woodlands and shelterbelts; dispersed farmsteads and compact villages; and relatively large fields with weak enclosure. In terms of built development the ACL highlights the need for strategic planning of where development might occur without adversely affecting landscape character and/or quality.

14. The appeal site, of itself, does not directly demonstrate the, very general, key characteristics of this Character Area. Moreover, the Northumberland Historic Landscape Character map identifies the appeal site as part of the 'settlement' rather than the adjacent 'fieldsapes' of Dunstan. Nevertheless, it is evident that the open form and verdant appearance of the appeal site, located behind the main line of built form, provides an area of transition from the Village to the open farmland beyond. In these respects, it reflects and makes a positive contribution to the general character and appearance of the rural landscape within this area. Furthermore, although the appeal site is enclosed in part by residential curtilages, its containment on the western side, comprised of a slim tree belt and post and rail/wire fencing, is weak and does not fully frame or screen the appeal site from the fields beyond.
15. Taking the above into account, the introduction of substantial built form into this open green space would lead to the incremental erosion of the rural setting of Dunstan. This would have a harmful impact on the distinctive landscape of the area which would not be sufficiently mitigated by the imposition of conditions for screening and landscaping.
16. Although not explicitly referred to in the reasons for refusal, in its delegated report the Council also consider that the proposal would not conserve or enhance the special qualities of the AONB. In finding harm to the distinctive landscape of the area, it follows that there would be some degree of harm to the special qualities of the AONB. This would be particularly in relation to the residential nature of the development with large areas of fenestration and the adverse impact that this would have on the special dark sky quality of the AONB.
17. The appellant has highlighted that the more visually prominent land immediately south of the appeal site is allocated for housing development in the adopted Alnwick District Local Plan but has not been delivered over the plan period. However, it has been confirmed by the Council that the allocation referred to was not saved upon adoption of the Alnwick District Local Development Framework Core Strategy Development Plan Document which was adopted in October 2007 (ADCS). Therefore, this carries very limited weight in the assessment of the appeal before me.

Dunstan Village

18. Along with their plot size and shape, the design and materials of dwellings within Dunstan varies. However, the arrangement of dwellings is generally coherent, as they are mainly single depth buildings which are aligned with the main roads running through the Village and incorporate frontages of varying depths. I note the Settlement Pattern Analysis submitted by the appellant and recognise that clustered cul-de-sac developments, similar to that proposed as part of this appeal, are present within the Village. However, these do not represent the prevailing character and appearance of residential development within Dunstan.

19. The introduction of four dwellings within the appeal site and of the layout proposed would create a second line of built form which would be out of keeping with the general character and appearance of residential development within Dunstan. Moreover, the buildings, combined with the creation of new areas of hardstanding, formal boundary treatments and other likely outdoor residential features, would result in an inappropriate suburban incursion that would erode and detract from the rural landscape setting which is integral to the character of Dunstan.
20. Whilst the proposal would not extend beyond the curtilages of Dunstan House and Dunstan Hall, it would extend further west than the main building line of the dwellings fronting onto this part of the U3014 and would be unduly conspicuous in longer distance views along public routes from the south within Dunstan. This would highlight the proposal's lack of assimilation into the character of the Village and its discordant appearance on the villagescape.
21. Given the variety of properties within Dunstan, I find that the design and materials of the proposed dwellings would not, of themselves, significantly offend. Nonetheless, an absence of harm in this respect does not overcome the fundamental objections to their proposed location and layout.

Listed buildings

22. The appeal site lies within about 100m of a cluster of structures which are included on the national list at Grade II* (Dunstan Hall) and Grade II (Attached Garden Wall to east of Dunstan Hall; Outbuildings by road to north east of Dunstan Hall; and Outbuildings to North of Dunstan Hall). The significance of these buildings is largely derived from their historical illustrative value, their aesthetic designed value and their evidential value. It is also derived from their value as a group.
23. I am mindful of the National Planning Policy Framework's (the Framework) definition of 'setting' as being the surroundings in which a heritage asset is experienced, the extent of which is not fixed and may change over time. Although the immediate setting of Dunstan Hall and associated structures is relatively well defined, the general spaciousness of the wider area provides a rural context which forms an integral part of their historic setting. This provides both an appreciation of their interrelationship with each other as a group and their relationship with the Village which, in turn, contributes to their significance.
24. With regard to the above, the open and verdant nature of the appeal site forms part of this wider spacious setting and makes a positive contribution to the significance of the listed structures. The introduction of sizeable built form within this space would detrimentally compromise the setting of the heritage assets and affect the ability to appreciate their significance.
25. Whilst the listed structures, particularly the Hall, may be argued to be visually separated from the appeal site by mature vegetation, the absence of a strong visual connection is not a determinative factor, as it is the physical presence and form of the proposal that would be harmful to the setting of the heritage assets and the contribution it makes to their significance. Moreover, this would not be the case in the autumn and winter months when the tree cover would be limited and the readily visible nature of the proposal would detract from

views to the Hall when observed from public routes to the south within the Village.

26. In all of these respects, the proposed development would fail to preserve the setting of the listed buildings and the contribution it makes to their significance.
27. Historic England transferred comment on the proposal to the Council's specialist officers, who concluded that the impact on the setting of the listed buildings would be 'marginal'. Nevertheless, the Council acknowledged that there would be a degree of harm which is also conceded by the appellant in the Heritage Statement.
28. I am aware of recent planning permissions for residential developments near to the listed buildings². However, these are for a single and two dwellings and so not directly comparable to the scheme before me. Furthermore, the development closest to the Hall, whilst permitted by the Council, represents an example of harmful encroachment into the setting of the listed buildings, which should not be used as a precedent to permit further similar proposals.

Conclusion on the First Main Issue

29. Drawing all of the above points together, I conclude that the proposal would have a harmful effect on the character and appearance of the area, having regard to its distinctive landscape, Dunstan Village and the setting of the adjacent Grade II* and Grade II listed buildings.
30. With reference to Paragraphs 195 and 196 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given that the impact of the proposal would be limited to part of the setting of the listed buildings and specific views to the Hall, I find that the harm would be 'less than substantial' in this instance. This concurs with the level of harm identified by both the Council in its delegated report and the appellant in the Heritage Statement. I give this harm considerable importance and weight.
31. Under such circumstances, Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The scheme would supply an additional four dwellings. Some economic and social benefits would be derived from their construction and occupation; and future occupiers would contribute to the local economy. These public benefits carry moderate weight in its favour.
32. Nevertheless, in my judgement, the public benefits identified are not of a sufficient weight to outweigh the considerable importance and weight that I attach to the harm I have found. As such, the proposal would fail to satisfy the requirements of the Act and Paragraph 192 of the Framework.
33. In addition, the scheme would conflict with Policies S13, S15 and S16 of the ADCS insofar as they seek to ensure that developments protect and enhance the distinctive landscape character of the district; preserve or where possible enhance the setting of heritage assets; and achieve a high standard of design, reflecting local character and distinctiveness. I find these policies generally

² Application Ref: 17/00875/FUL, Land North East Of Dunstan Hall, Dunstan Village, Dunstan, Northumberland and Application Ref: 18/00520/FUL, Land To North Of Heugh View, Dunstan Village, Dunstan, Northumberland.

consistent with the Framework in terms of its environmental objective and so give them substantial weight in this appeal.

34. It would also not comply with the Framework insofar as it seeks development to contribute to and enhance the natural and local environment; and conserve and enhance the historic environment.

Second Main Issue: Whether a suitable location for residential development

35. Under Policy S1 of the ADCS, Dunstan is identified as a 'Local Needs Centre' where development will be restricted to that satisfying local needs only. This approach is broadly consistent with the Framework with regards to the sustainable location of development, including rural housing in response to local circumstances and that reflects local needs. The Council consider that the proposal may meet local needs and concludes it complies with Policy S1. Nonetheless, there is no substantive evidence before me which confirms that the proposal would meet local needs and, on that basis, it would conflict with Policy S1. As this policy is broadly consistent with the Framework, I give this conflict substantial weight in this appeal.
36. Policy S2 of the ADCS sets out a sequential approach to the location of development. However, the Framework does not set such a strict hierarchical approach. On that basis, this policy can be given only limited weight in this appeal.
37. Policy S3 of the ADCS sets out a list of sustainability criteria against which development will be assessed. The Council considers that it would be difficult for the proposal to meet some of the criteria, but concludes it complies with Policy S3. However, I have found that the scheme would have an adverse effect on heritage assets. Thus, it would conflict, in part, with Policy S3. The policy broadly represents the Framework's aims with regard to the consideration of the sustainable location of development and therefore I give this conflict substantial weight in this appeal.
38. The Council's decision refers to conflict with Policy S14 of the ADCS, which relates to development in the open countryside. There is disagreement between the main parties as to whether the appeal site is located within the 'open countryside'. The first part of the policy requires that the development is likely to be sustainable in the context of policy S3 and includes a number of criteria similar to those in Paragraph 79 of the Framework relating to isolated homes in the countryside. I have had regard to the Braintree Judgement³ and, whilst the appeal site is not isolated with regard to its position being in close proximity to built development, given Dunstan's rural location and the limited services and facilities within the Village, the appeal site is isolated in terms of access to services and facilities. Moreover, the appeal site is on the outskirts of the Village and in a transitional area to the surrounding rural landscape. In these respects, I consider it to be located within the open countryside.
39. As I have found that the development would not be sustainable in the context of Policy S3, it would also conflict with Policy S14. Furthermore, as it would not be essential to support farming and other countryside-based enterprise and activity; promote recreation and support the retention of sustainable

³ Braintree DC v SSCLG [2017] EWHC 2743; [2018] EWCA Civ 610.

communities; or support the conservation and enhancement of the countryside, it would conflict with Policy S14.

40. The second part of Policy S14 also relies on Policy S2, which I have previously concluded does not reflect the Framework. Therefore, whilst the proposal would conflict with Policy S14, I give this conflict only moderate weight in this appeal.
41. I have been referred to recent planning permissions for residential developments⁴ and case law⁵ regarding the need for consistency in the application of policies by public bodies. I am not aware of the full details and circumstances of these permissions. However, from the limited information provided, given the locations of the permissions granted near to the appeal site, it appears that it would have been appropriate to assess those applications against Policy S14. Nevertheless, it is apparent that, with all three permissions there are differences in terms of the number of dwellings and the form of development and therefore, they do not represent a direct parallel to the appeal proposal before me. In any event, I have considered this appeal on its own planning merits and the specific context of the appeal site.

Conclusion on the Second Main Issue

42. For the reasons set out above, I conclude that the proposal would not provide a suitable location for residential development, having regard to planning policy. As such, it would conflict with Policy S1 and, in part, with Policy S3 of the ADCS in respect of the sustainable location of development. It would also conflict with the Framework with regards to achieving sustainable development and the provision of rural housing. It would also not comply with Policies S2 and S14 of the ADCS, although, as they do not accord with the Framework, I give these conflicts limited and moderate weight respectively for the reasons stated above.

Other Matters

43. Subject to the imposition of conditions, no objections were received in relation to highways, flood risk, ecology, archaeology and environmental health. Furthermore, the Council raised no concerns with regard to the impact of the proposed development on the living conditions of neighbours. Although some of these issues are disputed by interested parties, there is nothing in the evidence before me that leads me to take a different view on these matters. Nonetheless, a lack of harm in these respects weighs neutrally and does not amount to support in favour of the appeal.
44. As the appeal site is located within 10km of nationally and internationally designated sites, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my overall conclusion on the main issues, it is not necessary for me to consider this matter any further, as any findings in this respect would not change the outcome of the appeal.

⁴ Application Ref: 17/00875/FUL, Land North East Of Dunstan Hall, Dunstan Village, Dunstan, Northumberland; Application Ref: 18/00520/FUL, Land To North Of Heugh View, Dunstan Village, Dunstan, Northumberland; and Application Ref: 18/02190/FUL, Land North East Of Guyzance Avenue, Togston Road, North Broomhill, Northumberland.

⁵ Guildford2009 Guildford BC v SSCLG (EWHC 3531) Guildford BC v SSCLG [2009] EWHC 3531.

45. I note the appellant's comments that Craster Parish Council (CPC) has been inconsistent in its approach to new build housing proposals in Dunstan. However, this is not a matter for me to consider in the context of an appeal under Section 78 of the Town and Country Planning Act 1990.

Planning Balance and Conclusion

46. The proposal would have a harmful effect on the character and appearance of the area, having regard to its distinctive landscape, Dunstan Village and the setting of the adjacent Grade II* and Grade II listed buildings. Thus, there would be conflict with Policies S13, S15 and S16 of the ADCS. Moreover, it would not provide a suitable location for residential development, having regard to planning policy. This would be in conflict (fully or in part) with Policies S1, S2, S3 and S14 of the ADCS.
47. As outlined above, the proposal would contribute four additional dwellings to the housing supply which, the appellant states, would meet a range of needs including young families and the elderly. Economic and social benefits would also be accrued from their construction and occupation along with future occupiers supporting local services and facilities. These benefits are reduced by the limited amount of development that is proposed but nevertheless, carry moderate weight in its favour.
48. There are some policies in the development plan that support the appeal scheme. However, the most important policies to the determination of this appeal are those referred to above with which I have found conflict. Thus, I find that the proposal conflicts with the development plan as a whole.
49. Due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework is clear at Paragraphs 127, 170, 184 and 77 that developments should be sympathetic to local character and history; protect and enhance valued landscapes; conserve heritage assets in a manner appropriate to their significance; and be responsive to local circumstances in rural areas respectively. Therefore, even considering the Framework's objectives of significantly boosting the supply of homes, the contribution that the development of small and medium sized sites can make and the need to ensure the effective use of land, the overall conflict between the appeal proposal and ADCS Policies S13, S15, S16, S1 and S3 should be given substantial weight.
50. The Council submits that it can demonstrate a plentiful five-year housing land supply from 'deliverable' sites⁶. The appellant has not challenged this position, but highlights that the Council's overall housing requirement for the County should not be seen as a ceiling target.
51. However, Policy S14 (and therefore S2) of the ADCS do not reflect the Framework and so are out of date in respect of this proposal. Even so, the identified harm to the aforementioned listed buildings and the AONB and the application of policies in the Framework that protect assets or areas of particular importance, as identified in Footnote 6, provides a clear reason for refusing the proposal.

⁶ Northumberland Strategic Housing Land Availability Assessment (September 2019).

52. Accordingly, the proposal is not sustainable development for the purposes of the Framework and therefore, the presumption in favour of sustainable development does not apply.
53. Overall, I afford substantial weight to the harm I have identified and the conflict with the development plan when taken as a whole. Whilst I afford moderate weight to the benefits referred to above, material considerations do not indicate that the decision should be taken otherwise than in accordance with the development plan.
54. Accordingly, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR