



Appeal Decision

Site visit made on 12 August 2020

by M Seaton DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/X1355/W/20/3253276

The Garages, Esperley Lane, Cockfield, County Durham, DL13 5AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr David Sams against the decision of Durham County Council.
 - The application Ref DM/20/01077/PIP, dated 24 April 2020, was refused by notice dated 26 May 2020.
 - The development proposed is an application for permission in principle for 1 or 2 dwellings of either single storey or 2 storey dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for 1 or 2 dwellings of either single storey or 2 storey dwellings at The Garages, Esperley Lane, Cockfield, County Durham, DL13 5AN, in accordance with the terms of the application Ref. DM/20/01077/PIP, dated 24 April 2020.

Main Issue

2. The main issue is whether the principle of the proposed development is acceptable with specific regard to its location and, i) accessibility to services and facilities; and, ii) impact on highway safety.

Reasons

3. The appeal proposal is for a Permission in Principle. This consent route has two stages, the first stage establishes whether a site is suitable in principle, and the second stage, the technical details consent, is where the detailed development proposals are assessed. The appeal proposal is at the first stage and therefore I have considered the principle of the scheme.
4. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance, permission in principle has been sought for the erection of a minimum of one and a maximum of two dwellings at the appeal site.
5. The appeal site occupies a parcel of land previously used for the garaging of haulage vehicles, and upon which are located several remaining buildings. An existing access to the site remains discernible directly on to Esperley Lane, with the site located within the hamlet of Esperley. To the north-west of the appeal site on the other side of a vehicular access, is an existing row of terraced dwellings.

6. In concluding that the principle of developing the appeal site is unacceptable, the Council has expressed concerns that future occupiers would be heavily reliant on private vehicles to access services and facilities, and that it would not be possible to provide a safe and suitable access on to Esperley Lane due to the inadequacy of sight lines.

Accessibility

7. In assessing the location of Esperley, whilst it is not defined by a settlement boundary within the Development Plan, the hamlet is highlighted as occupying a position close to the larger settlement of Cockfield, where a significant number of services and facilities are present. Cockfield is shown by the appellant as being located 0.6 miles away from the appeal site by road or 11 minutes on foot and 1 minute by car, with the Cockfield Co-op Convenience Store indicated to be 0.9 miles away, although I note that other facilities within the village are further away. Bus stops were observed to be located approximately 400 metres away from the appeal site.
8. I have been referred by both parties to the guidance contained within the *Chartered Institute of Highways and Transportation Guidelines (CIHT)*, *'Planning for Walking' 2015*, and note the indication that most people will only walk if their destination is less than a mile away. However, whilst I have had regard to the Council's contention that in urban areas a typical catchment for a walkable neighbourhood would not extend beyond 800 metres or a 10 minute walk, I fail to see that this assessment would be applicable in this more rural context.
9. In this instance, it is clear from the submitted evidence that the appeal site would accord in general terms with the locational parameter of 1 mile set within the CIHT guidelines for access to many of the services and facilities, albeit that I recognise not all. I also accept that Cockfield would be within a reasonably short cycling distance along roads that I observed as not being particularly heavily trafficked. Nevertheless, it is reasonable to consider this guidance in light of the nature of the pedestrian environment, and the topography of the route.
10. I observed there to be a reasonable pedestrian environment and relatively benign topography for any journeys on foot to Cockfield from the appeal site, with pavement available for the duration and street lighting in place between the appeal site and the junction between Esperley Lane and Front Street and the location of the bus stop. There was however a gap in the street light coverage along Front Street from the Esperley Lane junction, estimated by the Council as 380 metres, before a recommencement closer to Cockfield.
11. I agree with the Council that given the distance and the absence of full street lighting that there are likely to be certain periods of the day and year, and also during periods of poor weather, when the likelihood of journeys being made on foot or by bicycle would be reduced with potential users deterred by the conditions. I am mindful though that it would be reasonable to draw the same conclusion for urban areas. Nevertheless, I consider that the distance and highway environment would not necessarily discourage journeys to the services and facilities of Cockfield at other times, either on foot or by bicycle. Whilst I have also had regard to the Council's concerns over the absence of surveillance for the full route, it has to be accepted that any path within an area of rural

character is likely to possess at least some sections where overlooking from surrounding development does not occur.

12. In addition, I acknowledge that the position of the bus stops would be within a reasonable walking distance of the appeal site, and that these would be accessible along lit pavements. Furthermore, the availability of a comparatively regular service on a daily basis covering a number of different routes and larger settlements and towns provides further substantial weight in support of the conclusion that future occupiers of the site would benefit from access to transport alternatives to the private car.
13. I am therefore satisfied that the accessibility of the site to local services and facilities would not be solely dependent upon the use of the private car. Whilst the proposal would conflict with the spatial objectives of saved Policy H4 of the Teesdale District Local Plan 2002 (the Local Plan), there would not be any significant conflict with saved Policy GD1 of the Local Plan in this regard. This policy seeks to ensure that development encourages the use of other transport modes and possesses links and access to public transport and local footpaths. I also find the proposed development would accord with Policy 108 of the National Planning Policy Framework (the Framework), given the availability and accessibility of sustainable transport modes to future occupiers of the site.

Highway safety

14. The Council's principal concern relating to highway safety is whether it would be possible to achieve a safe and suitable access to the proposed development, and whether there would be adequate sight lines for vehicles exiting the site. Whilst I am mindful that specific details of the means of access to the site would need to be provided as part of the technical details consent, it is reasonable to consider the availability of a safe and suitable access as part of the assessment of the appropriateness of the proposed land use.
15. I am satisfied from my own observations of the access points and the submitted evidence, that neither the direct access from the appeal site nor the existing access road to Esperley Lane provide sight lines that would accord with the visibility criteria of the Manual for Streets for the restricted 30mph speeds through Esperley or derestricted speeds. However, it is recognised that both accesses already exist and either have been or are used on a regular basis.
16. I accept that the previous use of the site would have had the potential to generate some vehicular traffic on a daily basis, albeit that the amount has not been quantified by the appellant beyond the possibility of the site being used in an unrestricted manner in the future. Nevertheless, it is likely given the previous use that an annualised daily average of the previous land use would be substantially less than that which might be generated by the proposed development, and on the basis of an estimation of vehicle trips by the Council for the previous and proposed uses, I am satisfied that there would be a considerable increase.
17. Whilst the direct access from the appeal site to Esperley Road does not appear to be in any kind of regular use, the use of the side road is currently used in connection with the other residential properties. The incorporation of an access from the western side of the appeal site would result in additional vehicular movements over a road which does not meet the Council's highway adoption standards, albeit that the historic use of the access in conjunction with the

terraced dwellings already significantly exceeds any limit on the number of dwellings.

18. I recognise that visibility to the west for vehicles exiting the side road is limited by the northern boundary of No. 16 Esperley Lane. However, the Council has not provided any evidence or testimony to indicate that the volume of the existing use of the side road has resulted in adverse conditions which have led to accidents. In this regard, my attention has been drawn to paragraph 109 of the Framework, which sets out that *Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
19. Whilst the increased vehicular movements from the appeal site would inevitably result in some limited additional danger to road users and a worsening of highway safety due to the increased use of the substandard access, in the absence of any compelling evidence to the contrary I am not persuaded that the residual cumulative impacts on the road network would be severe.
20. The appellant has drawn my attention to the position of a second access towards the western end of the terraced dwellings and associated with their use. However, whilst the characteristics and visibility from this further access would appear to differ from that of the side road adjoining the appeal site, the appellant has not suggested a means of ensuring that vehicular traffic would utilise this access in preference to the other. As such, I do not find this to be a mitigating factor in my decision-making.
21. For the reasons given, I find that the proposed means of access would result in some limited additional harm to highway safety. This would conflict with saved Policy GD1 of the Local Plan, which seeks to ensure that adequate and safe access to the site is provided. There would also be conflict with paragraph 109 of the Framework.

Other Matters

22. The Council has cited the proposed development as having the potential to create a precedent for similar development on land immediately to the south of the appeal site. However, each case must be considered on its own planning merits and in any event no persuasive evidence of any substance has been adduced to support this contention.

Planning Balance and Conclusion

23. Both the Council and the appellant are in agreement that the housing supply policies and policies related to the establishment of settlement boundaries as set out in the Local Plan are currently out of date, and that as a consequence paragraph 11d) of the Framework and the presumption in favour of sustainable development is therefore engaged.
24. The proposed development would result in the provision of additional dwellings to the local housing market which would be an undoubted benefit, albeit given the quantum of development the social weight to be attached would be limited. The local economy would also have the potential to have some limited benefit during the construction period and from future occupation, and being mindful of the requirement of paragraph 78 of the Framework that housing in rural

areas should be located where it will enhance or maintain the viability of rural communities, the proposal would provide some further limited support for local services and facilities.

25. From an environmental standpoint, the proposed development would make effective use of land which was previously developed in accordance with paragraph 117 of the Framework. It would also have the potential to make a positive contribution to the local built environment through an overall improvement to the appearance of the appeal site from the existing rather decrepit and unused condition. In these respects, further moderate weight would be attracted in support of the proposal.
26. I have found there to be some limited adverse impact on highway safety as a consequence of the failure of either of the existing access points to provide a safe and suitable access to the public highway. However, I have concluded that the appeal site could be considered to be a generally sustainable location for residential development. When taken together with the other benefits and considerations being put forward in favour of the development, I am satisfied that even if there was not a presumption in favour of sustainable development, the benefits of the proposed development would comfortably outweigh the harm.
27. I am therefore satisfied that the adverse impacts of the proposed development would fail to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
28. The Council has suggested conditions in relation to the time limit and approved plans be applied in the event that permission in principle was to be approved. However, the government's Planning Practice Guidance makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, the type and amount of development.
29. For the above reasons, I therefore conclude that the appeal should be allowed.

Martin Seaton

INSPECTOR