



Appeal Decision

Site visit made on 17 November 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2020

Appeal Ref: APP/P2935/W/20/3256130

Land north of The Crest, A1068 Alnwick Road, Lesbury, Northumberland.

- 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 Guy Munden (Northumberland Estates) against the decision of Northumberland County Council.
 - The application Ref 18/04221/OUT, dated 27 November 2018, was refused by notice dated 27 May 2020.
 - The development proposed is development of a single residential dwelling, including car parking, access and garden area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the details of the site address from the appeal form as this is a comprehensive description of the location of the appeal site.
3. The application is made in outline with access to be determined and layout, scale, appearance and landscaping reserved. The application drawing suggests the siting of a dwelling and I have taken this drawing to be for indicative purposes only.
4. Reference is made to the emerging Northumberland Local Plan, Publication Draft (Reg 19) (January 2019) (emerging NLP) in the Council's delegated report, but policies from it are not referred to in the decision notice. The main parties have, between them, confirmed that the emerging NLP is undergoing examination and has not been formally adopted; that representations to the emerging NLP with respect to housing policies and site allocations have been made; and, that there are many unresolved objections from other interested parties. I therefore attach limited weight to the policies in the emerging NLP.
5. On 11 July 2020, Northumberland County Council issued a Regulation 18 Decision Statement in respect of the Lesbury Neighbourhood Plan 2019 – 2036 (LNP). Having regard to the decision statement the Plan may proceed to referendum. I will return to consider the LNP later in my decision.
6. A signed unilateral undertaking (UU) dated 22nd October 2020 providing for the payment of £600 towards the cost of the coastal mitigation service has been submitted by the appellant. I have had regard to the obligation within the UU in my consideration of the appeal.

Main Issues

7. The main issues are:

- the effect of the development on the character and appearance of the area having regard to the distinctive landscape character of Lesbury;
- whether the appeal site is in a suitable location for residential development having regard to planning policy including the LNP; and
- the effect of the development on biodiversity.

Reasons

Character and appearance

8. The appeal site is located to the north of Lesbury Village. It is a rectangular plot just beyond a short section of ribbon development consisting of a variety of house types facing, but set back from, Alnwick Road behind landscaped front gardens.
9. Lesbury is located within Lower Aln, character type 2: Coastal Incised Valley in the Northumberland Landscape Character Assessment (August 2010) (NLCA). The key characteristics of the character type are evident around the appeal site with open agricultural fields to the north and east, ribbon development to the south and the A1068 to the site frontage.
10. The appellant references the Alnwick District Wide Local Plan 1997 Proposals Map which, in contrast with a large proportion of the former Alnwick District area, does not specifically designate the appeal site for its landscape quality. Despite this, and the generality of the NLCA, the appeal site is an area of transition between the village and the open land to the north. Beyond the beech hedge that defines the appeal site's southern boundary the hedges and trees along the A1068 road frontage become less dense and views are afforded over the arable fields to an attractive landscape with an open, rural character and appearance.
11. Approaching Lesbury from the north the beech hedge and the gable elevation of 'The Crest' have a strong visual presence. The appeal site's containment on the northern side, comprised of limited low-level sporadic hedging, is not a notable feature of this view and the rough-cut land, seemingly of similar type to the field margin to the north, allows the appeal site to blend into the rural landscape with limited distinction from the adjacent fields. Therefore, even though the appeal site was, until recently, tenanted to the occupants of 'The Crest', its character and appearance reflects and makes a positive contribution to the rural landscape.
12. The erection of a dwelling towards the front of the appeal site and the formation of a vehicle access, with the necessary changes to the boundary trees and hedges, would have an urbanising effect on the land. The beech hedge is a well-defined and prominent landscape feature that functions to separate the built environment of the village from the surrounding open countryside. The proposals would disrupt and diminish this strong landscape boundary at the edge of the settlement. It would also undermine the countryside setting of Lesbury on a prominent site at the entrance to the village.

13. Therefore, in respect of this issue, I conclude that the proposal would harm the character and appearance of the area having regard to the distinctive landscape character of Lesbury. The proposal would conflict with Policies S13 and S16 of the Alnwick Core Strategy 2007 (Core Strategy) insofar as these policies seek to ensure that developments reflect, protect and enhance the distinctive landscape character of the district. It would also conflict with paragraph 170b of the National Planning Policy Framework (the Framework) where it recognises the intrinsic character and beauty of the countryside.

Location

14. Under Policy S1 of the Alnwick Core Strategy 2007 (Core Strategy) Lesbury is identified as a 'sustainable village centre'. Policy S1 supports development in Lesbury, as part of the group of villages of Lesbury/Hipsburn/Bilton/Alnmouth that have public transport and a strong service base, provided that development is accessible and reflects the services present and the character of the settlement. Policy S2 sets out a sequential approach to development prioritising previously developed land and buildings in urban areas. Policy S3 sets out a list of criteria against which the sustainability of development will be assessed.
15. The Council's decision refers to conflict with Core Strategy Policy S14. The first part of Policy S14 only supports development in the open countryside where it is likely to be sustainable in the context of Policy S3 and is for one of a limited number of purposes, none of which apply here.
16. Although I agree that the hierarchical approach to the location of development in Policy S2 is not consistent with the Framework, the locational strategy is broadly consistent with the Framework where in rural areas development should be responsive to local circumstances, located where it will enhance or maintain the vitality of rural communities and identify opportunities for villages to grow and thrive especially where this will support local services. The Framework also recognises the intrinsic character and beauty of the countryside.
17. I accept that the appeal site is in an accessible location and in this respect the development accords with Policy S3. However, although the site is not geographically remote from the closest neighbouring property, it is visually and physically distinct from the settlement as a result of the change in character at this point from suburban residential to open countryside. Therefore, it is located where Policy S14 restricts development. Further, while the provision of one dwelling would provide limited support for services and facilities it would not enhance the countryside or reflect the character of the settlement.
18. The LNP defines a settlement boundary, drawn around the existing built up area of Lesbury, with the appeal site outside the settlement boundary and considered as being countryside as per LNP Policy 1. The appellant considers that the proposal does not conflict with Policy 1 of the LNP. I accept that the appeal site is not identified as a sensitive settlement edge and I agree that the location is not isolated in the context of case law¹. However, Policy 1 does not support development outside defined development limits except where it is compatible with national and local strategic planning policies which is not the case here.

¹ Braintree DC v SSCLG [2017] EWHC 2743; [2018] EWCA Civ 610.

19. I note the appellants view that the LNP is vulnerable to judicial review and that its legitimacy and status is gained through the referendum. Be that as it may, and while it is not part of the development plan, I consider that the LNP is a relevant material consideration in this appeal. This point is confirmed by the Planning Practice Guidance (PPG)².
20. Overall, I conclude that the appeal site would not be in a suitable location for residential development having regard to planning policy including the LNP. The proposal would conflict with Policies S1 and S14 of the Core Strategy. It would conflict with the LNP and, in accordance with the PPG, I attach significant weight to this conflict. It would also conflict with the Framework.

Biodiversity

21. Planning permission was granted for the site to be used as a wildlife meadow and pond for nature conservation in 2003³. The owner of 'The Crest' was a tenant on the land until August 2018 when the land was returned to Northumberland Estates.
22. The initial Ecology Report⁴ (ER June 2018) references the condition of the appeal site when it was surveyed in July 2017. It indicates that the site, at that time, was an area of rough ground containing a pond and that 'the site comprises an area of tall ruderal vegetation, a copse and wildflower planting with a large pond within the centre'
23. There does not appear to be any dispute between the parties that the pond identified within the appeal site as part of the ER June 2018 was a habitat of principal importance for the conservation of biodiversity in England under the Natural Environment and Rural Communities Act 2006 (NERC Act) or that the site was a breeding habitat of a species of principal importance under the same Act. As explained in the PPG there is a duty on public authorities under the NERC Act to have regard to the purpose of conserving biodiversity in the exercise of their functions.
24. The appellant's evidence is that the pond was removed under the guidance of a fully qualified ecologist in October 2018 and I have no reason to doubt the appellants reasons for removing the pond at that time. Core Strategy Policy S12 seeks to protect and enhance biodiversity and states that proposals will be assessed against their impact on the interests of the site and on habitats and species present. Clearly the pond had been removed when the application was applied for. The later Ecology Report⁵ (ER October 2019) does not identify a pond or a breeding habitat for the common toad. I can therefore see no basis to request mitigation for the loss of the pond.
25. However, the ER October 2019 identifies that the appeal site had previously been managed as a domestic garden consisting of a lawn dominated by grass species. This is not consistent with third party comments, the evidence of the earlier ecology report or consistent with my observations at the appeal site. Further, there are discrepancies over whether bat and bird roosting and nesting mitigation measures proposed to compensate for existing activity at the site

² Paragraph 009 ReferenceID:8-009-20190721

³ Change of use from open countryside to wildlife meadow and pond for nature conservation - planning permission ref A/2003/0323 dated 25/07/2003.

⁴ Ecological Appraisal June 2018 final – E3 Ecology Ltd

⁵ Land north of the Crest, Lesbury – Ecology Report BSG Ecology October 2019

would be adequate, and very limited evidence that there would be net gains in biodiversity. Consequently, I am not persuaded that existing biodiversity would be protected or that there would be any biodiversity benefit or net gain at this site.

26. Therefore, the proposal would not protect or enhance biodiversity in conflict with Policy S12 of the Core Strategy. It would also conflict with the Framework where it seeks to ensure development contributes to the natural environment, takes opportunities to achieve net environmental gains and seeks biodiversity improvements in and around development.

Other Matters

27. I have had regard to other concerns raised by the Parish Council and interested parties in respect of highway safety. However, the evidence before me on this matter does not indicate that the entrance to the appeal site would cause additional material harm to be factored into the planning balance, and therefore I do not address this in further detail.
28. I have had regard to the appeal cases referred to by the appellant at Powburn,⁶ Longframlington⁷ and Dunstan⁸. I have considered the policy approach in each of these decisions and I do not consider that my approach to the appeal proposal is incompatible with the conclusions at these other sites.
29. 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. I have had regard to the UU and the mitigation proposed within it. However, 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.

Planning Balance and Conclusion

30. The Framework establishes a presumption in favour of sustainable development. It provides at paragraph 11(d) that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
31. I have found that the development would harm the character and appearance of the area, would not be a suitable location for the proposal having regard to planning policy and the LNP and would not protect or enhance biodiversity. The Framework paragraphs 77, 127, 170 and 175 are clear that development should be responsive to local circumstances, sympathetic to local character and history, including the surrounding built environment and landscape setting, recognise the intrinsic character and beauty of the countryside and protect and enhance biodiversity. Therefore, even when considering the Framework's objectives of significantly boosting the supply of housing and the contribution

⁶ APP/P2935/W/20/3246042

⁷ APP/P2935/W/19/3242847

⁸ APP/P2935/W/19/2433995

small sites can make to the housing supply, I attach significant weight to the harm I have identified.

32. An additional unit would make little difference to the overall supply of housing and the contribution of one extra household to the local economy and social objectives would also be insignificant.
33. Even if the policies which are most important for determining the application were out of date with regard to paragraph 11 of the Framework, I find that overall, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
34. The proposal would conflict with the development plan when it is read as a whole and material considerations, including the Framework, do not indicate that a decision contrary to the development plan should be reached.
35. Therefore, for the reasons given, the appeal is dismissed.

Diane Cragg

INSPECTOR