



Appeal Decision

Site visit made on 9 December 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2021

Appeal Ref: APP/X1355/W/20/3256902

Land to the north of Moor View Cottage, Road leading to Clifford's Farm, Ovington DL11 7DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Buttery against the decision of Durham County Council.
 - The application Ref DM/20/00923/FPA, dated 3 April 2020, was refused by notice dated 1 June 2020.
 - The development proposed is the erection of 3 No. two storey dwellings with detached garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 21 October 2020 the County Durham Plan (CDP) was adopted. This had the effect of superseding and replacing the provisions of all the district local plans across the county including the Teesdale Local Plan 2002. The Council considers that the policies of the CDP continue to support its grounds for refusing planning permission for the proposed development. This appeal has been determined against the relevant policies of the new plan together with other material considerations. Both parties have had the opportunity to comment upon the relevance of the CDP to the appeal proposal.
3. The Council has asked that some of the reasons for refusal be updated and revised in the light of the newly adopted CDP. This request has been declined and this Decision Letter addresses the reasons for refusal set out by the Council in its notice 3 June 2020.

Main Issues

4. The main issues are:
 - Whether the appeal site would be an appropriate location for residential development having regard to the Council's settlement policy;
 - Whether the development proposal would affect the character and the appearance of the surrounding area;
 - Whether the development proposal would affect the setting of Ovington Edge, a Grade II listed building;

- Whether the development proposal would prejudice highway safety on Clifford's Lane; and
- Whether the development proposal would produce a net gain in the biodiversity of the site.

Reasons

Whether an appropriate location

5. The proposed development would be sited on a field measuring nearly 1.0 hectare in area located on the eastern side of the village of Ovington in Durham. It is common ground between the parties that the site is not allocated for development and falls instead to be considered as an unallocated site.
6. The field is accessed from Clifford's Lane¹ which runs from opposite the village green to Clifford's Farm. The site slopes from the point of access in the south-western corner to the northern boundary by around 7 metres.
7. The proposed development would comprise the erection of 3 detached 2—storey, 4+ bedroom dwellings, each with a garage, served from a short cul-de-sac. Clifford's Lane contains a variety of dwellings including a cul-de-sac of around 10 houses just beyond the site moving away from the centre of the village.
8. Two single detached dwellings have been granted planning permission on sites fronting onto Clifford's Lane adjacent to the appeal site. The first is currently at an advanced stage of construction and commencement work on the second is understood to be imminent.
9. Ovington is a small rural settlement. It has a public house ('The Four Alls') and a village hall. It does not have any shops, education or health facilities. There are no bus routes serving the village. It ranks 172nd out of 230 in the Council's settlement study with a score of just 2.6 although no details have been presented to explain how the ranking or the scoring system were computed.
10. Irrespective of that matter, however, the village has only very limited services meaning that occupants of the proposed dwellings would be reliant upon travelling to other towns and villages and receiving goods by home delivery. Development of housing within the village would help to maintain the vitality of the public house and the village hall but this must be considered against other objectives within the National Planning Policy Framework ('the Framework').
11. The nearest settlements containing higher order services are Gainford and Barnard Castle which are 4.5 miles and 8 miles away respectively. Notwithstanding the existence of footpaths along the River Tees, given the distance from Ovington these settlements would not, to all intents and purposes, be accessible by means other than the private car.
12. The desire to locate new development where it allows for the use of sustainable modes of transport to services and facilities needs to be applied with respect to the geographical circumstances. It is also important that planning decisions should exhibit consistency in order that the public maintain confidence in the system.

¹ In some documents this is referred to as Post Office Lane.

13. In this case, however, a round trip of nearly 10 miles is an unacceptably long journey if undertaken on a regular basis and also one that would incrementally undermine the Council's desire to reduce private car usage. The Council's decisions to approve the two previous applications on adjacent land were taken against the policy background provided by the former Teesdale Local Plan 2002 which has now been superseded.
14. For the above reasons the proposed development would not be located within a settlement that would have good access by sustainable modes of transport to required services and facilities. Thus, it would fail to accord with Policies 6(f) and 21 of the CDP which seek to ensure that new development is located to provide access by sustainable means of transport.
15. It would also fail to accord with the advice handed down at Paragraph 103 of the Framework that patterns of growth should be managed to encourage cycling, walking and use of public transport. In helping to support and sustain the existing facilities within the village it would accord with Paragraph 78 of the Framework but, given the imperative to address climate change, this should be given less weight than attaches to the consideration regarding travel choices.

Character and appearance

16. The proposed access road would project in a broadly north-east direction across the site with one dwelling on either side and the third at the end. Each of the dwellings would be in a substantial plot and none would be close to the outer boundaries of the site. They would be constructed of locally sourced random stone with red clay pantile roofs.
17. Most of the dwellings within Ovington are located around or close to the village green. In general, they are quite closely grouped together giving rise to a dense development pattern (see Appellant's Full Statement of Case, paragraphs 4.25 and 4.26). This pattern is also evident along Clifford's Lane.
18. The proposed dwellings would have a similar sized footprint to many of those in the village. However, as the Appellant acknowledges in its Full Statement of Case (paragraphs 4.20 and 4.28), the appeal proposal would have a very low level of density with a generous level of separation between the dwellings.
19. Due to its elevation this marked difference in the level of density and layout would be very evident from Clifford's Lane. It would also be evident when viewed from the section of Ovington Road between the village hall and Ovington Edge. The layout would have a very suburban quality that would jar with the rest of the village and look incongruous.
20. There is a proposal to designate a conservation area in the village at some point in the future. However, this can be given very little weight given its embryonic status.
21. A proposal to extend the existing near-by Winston Bridge caravan park by 36 pitches was approved in October 2019². The site is close to the River Tees and is part of a sensitive landscape. However, the development will be phased to ensure that new landscaping measures will provide a satisfactory level of visual mitigation.

² DM/19/02010/FPA

22. Each planning application is dealt with on its own merits and against relevant prevailing policy considerations. The proposed extension of the caravan park would be a relatively isolated leisure facility which would be considered against a different set of policy criteria to those for a residential development proposal on the edge of a village. Therefore, it does not form a precedent that is significantly relevant to the determination of this appeal.
23. Thus, notwithstanding the use of traditional building materials the proposed dwellings would, by virtue of the very low level of development density, harm the character and the appearance of the village. Thus, the appeal proposal would fail to accord with Policy 6(d) of the CDP which seeks to encourage development that is appropriate in terms of design, scale, layout and location to the character, form, function and setting of the settlement.
24. Furthermore, it would also fail to accord with the advice set out at Paragraph 127 of the Framework that new development should be visually attractive and maintain a strong sense of place.

Effect on Ovington Edge

25. The two-storey Grade II listed building, Ovington Edge, occupies an isolated and elevated area of land just beyond the northern boundary of the appeal site. The house faces onto Ovington Lane and is the first building to come into view on entering the village from the east.
26. The farmhouse was listed in 1987 and is thought to have been constructed in the late c17 or early c18. It is of rough rubble construction with long, roughly shaped quoins and cut dressings, and a pantile roof and rough stacks. It is now a domestic residential property. Both the principal elevations are of historical significance.
27. It is understood that the Council granted planning permission for construction of a new dwelling to the side of Ovington Edge in 2015³. This permission has not been implemented and has now lapsed. From inspection it is clear that Ovington Edge has maintained its historical integrity.
28. The house has a relatively small back garden which is demarcated from the neighbouring appeal site by a row of coniferous trees, shrubs and a concealed ha-ha. Notwithstanding that the building is now a residential property its juxtaposition with the appeal site renders clear its historical functional relationship with the neighbouring field. Consequently, the appeal site does form part of the setting of the listed building.
29. The appeal layout is configured so that the nearest of the proposed dwellings would be about 30-40 metres from the rear elevation of Ovington Edge and orientated to facilitate clear views of the listed building from Clifford's Lane. Because of this level of physical separation, the development proposal would cause a less than substantial level of harm to the setting of the listed building.
30. The public benefits from the proposed development flow largely from the economic stimulus generated through the short-term construction phase. It is acknowledged that the Covid-19 virus has had catastrophic consequences on the UK economy and that construction provides an important means by which to stimulate growth and employment.

³ DM/15/01271/LB

31. However, there is also an important need to protect the integrity of listed buildings which help define the character of the settlements in which they sit. The short-term public benefits of this appeal proposal should not be underestimated but they are, nevertheless, insufficient to outweigh the long-term harm to the setting of this listed building.
32. Consequently, having regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposed development would harm the setting of Ovington Edge.
33. Therefore, the proposal would fail to accord with Policies 6(c-d), 29(a) and 44 of the CDP. These policies seek to ensure, respectively that new development does not result in the loss of land that has heritage value, is appropriate relative to the setting of the settlement, contributes positively to the area's heritage significance and sustains the significance of designated heritage assets and their settings.
34. Furthermore, the proposal would fail to accord with the advice set out in Paragraph 193 of the National Planning Policy Framework that new development should not affect the setting of a listed building.

Highway safety

35. Clifford's Lane is very narrow adopted dead-end road that serves a farm and around 20 dwellings. Following the short downhill stretch from the village green to a sharp left turn there is a straight section to the appeal site entrance where it turns quite sharply right leading to the cul-de-sac and the farm beyond. Because the lane is very narrow it is likely that traffic would be moving quite slowly along it reducing the likelihood of any accidents or injuries.
36. The proposed development would contribute between around 12-24 additional vehicular trips per day. Because of the narrow width of the carriageway vehicles are having to move onto the grass verge to allow on-coming cars through. To obviate this issue, it would be necessary to widen the lane somewhere along the straight section to allow for passing.
37. Ideally the passing place would be located towards the middle of the straight section since it offers best inter-visibility between on-coming vehicles. However, since the verge is outside the control of the Council this would require third party consent which might be very difficult to secure.
38. However, there would be sufficient land within the area providing access to the appeal site to provide a satisfactory passing place. Since this land would be within the control of the Appellant the need to include a passing place could be affected through a standard planning condition, obviating the need for a Grampian-style planning condition. Whilst it would introduce a somewhat suburban feel to the bucolic lane the effect would be very slight.
39. For the above reasons the proposed development would not cause any danger to highway users. Therefore, it would accord with Policies 6(e) and 29(e) of the CDP which seek to ensure, respectively, that new development does not harm pedestrian or driver safety and minimises its impacts upon occupants of neighbouring dwellings.

40. Furthermore, it would accord with Paragraph 108(b) and 109 of the Framework which advise that new development provides for safe and suitable access to the site and that there should be no unacceptable highway impact.

Biodiversity

41. The site comprises rough grassland with limited bio-diversity interest. The submitted Preliminary Ecological Appraisal states that the development proposal would incorporate some planting of native species along the eastern boundary together with bat and bird boxes.
42. An appropriately worded planning condition could be incorporated into a planning permission to ensure that the proposed measures would be delivered and maintained in place in perpetuity.
43. For the above reasons the development proposal would accord with Policy 41 of the CDP which seeks to ensure that new development retains and enhances existing biodiversity assets.
44. Furthermore, it would accord Paragraph 170(d) of the Framework that advises that new development should secure net gains for biodiversity.

Other Matters

45. The development proposal would incorporate energy efficient measures which are a planning benefit. A soakaway would be used in preference to use of the mains sewerage system. As explained earlier when considering the effect of the proposal on heritage assets this scheme would produce short-term construction related employment benefits.
46. The Appellant has sought to work closely with the Council in connection with this proposal and, to that effect, withdrew an earlier application in order to affect significant revisions.

Planning Balance and Conclusion

47. The proposed development would not cause any harm to highway safety along Clifford's Lane nor would it conflict with the need to achieve a net-gain in biodiversity on the site. It would also incorporate energy efficient measures and produce short-term economic benefits.
48. However, the development would not be in a suitable location having regard to the need to reduce private car usage and maximise the opportunities for walking, cycling and public transport use. Furthermore, its low-density layout would not be in keeping with the character and appearance of the rest of the village. Finally, it would harm the setting of a Grade II listed building without providing compensatory public benefits to offset the effect.
49. These shortcomings would fundamentally conflict with the policies set out in the Development plan and in the Framework and would outweigh my findings as regards highway safety, biodiversity and energy efficiency.
50. For these reasons the planning appeal should be dismissed.

William Walton

INSPECTOR