



Appeal Decision

Site Visit made on 13 January 2021

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2021

Appeal Ref: APP/X1355/W/20/3260650

Land at Flass Terrace, Esh Winning DH7 9QA

- 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 Colin Askew against the decision of Durham County Council.
 - The application Ref DM/20/01150/OUT, dated 6 May 2020, was refused by notice dated 14 September 2020.
 - The development proposed is outline application for residential development for up to 3 dwellings (all matters reserved).
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Decision

1. The appeal is allowed and planning permission is granted for outline application for residential development for up to 3 dwellings (all matters reserved) at Land at Flass Terrace, Esh Winning, DH7 9QA in accordance with the terms of the application, Ref DM/20/01150/OUT, dated 6 May 2020, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) No development other than ground clearance or remediation works shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the local planning authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016. The development thereafter shall be completed in accordance with the details and timetable agreed.
 - 5) Prior to the commencement of development, details of the following shall be submitted to and approved in writing by the local planning authority.
 - 1) Tree Survey
 - 2) Arboricultural Impact Assessment
 - 3) Tree Protection Plan, and
 - 4) Arboricultural Method Statement.The Scheme for the protection of trees shall be implemented as approved prior to the commencement of development. All of the details shall comply with BS 5837 2012 (Trees in relation to design, demolition and construction).

- 6) Prior to the commencement of the development, details of the widening of the access road as shown which needs to be constructed to an adoptable standard shall be submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details prior to the occupation of any dwelling.

Preliminary Matters

2. The application was in outline with all matters reserved. Plans have been submitted as part of the appeal which indicates how up to three dwellings could be accommodated on the site. I have taken these plans into account for indicative purposes only.
3. Since the original decision the Council have adopted the County Durham Plan. This replaces the City of Durham Local Plan such that the policies of that plan cited on the decision notice are no longer part of the development plan and have no weight. I have therefore determined the appeal having regard to the relevant policies within the County Durham Plan (2020).

Main Issues

4. The main issues are whether the appeal site is a suitable location for residential development having regard to development plan policy and the effect of the proposed development on 1) sustainability and 2) the character and appearance of the area.

Reasons

Sustainability

5. The appeal site comprises a triangular shaped parcel of land adjacent to a small terrace of two storey residential properties. It is located on a relatively busy single carriageway that runs between Esh Winning and Ushaw Moor. It is located outside of the settlement limits for Esh Winning on greenfield land.
6. In terms of accessibility, there is a bus stop on the eastbound carriageway directly in front of the appeal site with the westbound bus stop on the opposite side of the road in front of the existing terrace of properties. These bus stops provide services to Durham City Centre and Esh Winning respectively. There is a footpath on the opposite side of the road that leads to Esh Winning, the local centre of which the Council comment is 1.3km from the appeal site. The footpath is in places relatively narrow, that is, until it reaches the outskirts of Esh Winning, which the Council comment is around 400m from the appeal site. There is streetlighting at sporadic intervals, either located on the opposite side of the road or on the same side as the footpath.
7. On my site visit, I observed that there are no amenities in the immediate area and as a result, residents of the development would be required to travel to nearby settlements to access such services. I observed that there are a reasonable level of services and amenities in Esh Winning and Ushaw Moor for day to day needs and activities. Although residents may travel by private car for journeys, there are alternative means available, particularly by bus, which given the frequency throughout the day (around every 15 minutes during the day), I cannot agree with the Council as being 'limited'. Representation is made that the cost of bus fare (£1 each way to Esh Winning) and the current pandemic would discourage bus use, however these factors do not lead me to

conclude against the fact that there is the provision of alternative means of travel.

8. It is conceivable that residents may walk to Esh Winning local centre. I acknowledge that the footpath is, for part of the journey not particularly wide and it sits adjacent to a road set at the national speed limit, factors which may discourage its use. Nevertheless, this is only for around a third of the distance and the footpath would still serve to provide a useable pedestrian route. The centres of Esh Winning and Ushaw Moor are also within a reasonable cycling distance. Either way, whilst I acknowledge that the immediate environment for pedestrians and cyclists is not ideal, these are but two alternatives to car travel and the provision of the bus service, referred to above, means that residents would not be solely reliant on car travel.
9. For these reasons, 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. The proposal would comply with Policies 6, 10 and 21 of the County Durham Plan (2020) which require, amongst other things, that development within the countryside should not be solely reliant upon or significantly intensify accessibility by unsustainable modes of transport; and that all development shall deliver sustainable transport, providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users.
10. I also find the proposed development would accord with paragraphs 103 and 108 of the National Planning Policy Framework (the Framework), given the availability and accessibility of sustainable transport modes to future occupiers of the site.

Character and appearance

11. The appeal site is located in the countryside, adjacent to an existing terrace of two-storey properties. It currently comprises an area of overgrown land, that, I observed, appeared to have been partially subject to fly-tipping.
12. There is a prominent line of trees and other landscape features that delineate the western and northern boundaries of the site. These landscape features serve to provide a clear severance between the appeal site and the open agricultural fields beyond the site. When combined with a similar linear landscape feature at the opposite side of the existing terrace of properties it creates a distinct triangular shaped area that appears markedly different from the open agricultural fields that are near to the appeal site.
13. In this context, despite constituting a countryside location outside a settlement, I do not consider that development of the site for up to three dwellings would harm the character and appearance of the area. The appeal site has limited value in terms of its significance and contribution to the beauty of the countryside. The development would be seen in conjunction with the existing terrace and not break out from the clearly defined triangular area that I have identified above.
14. The Council consider that the form of the proposal would not be appropriate, representing a development that would extend the existing terrace of houses further along the roadside and encroaching into the countryside. Although the

layout of the development is not before me, I am satisfied that an appropriate future layout of the development is attainable that would not cause harm.

15. The Council consider that the proposal would constitute a form of ribbon development which Policy P10 of the Local Plan seeks to restrict. Be that as it may, I consider that the limited amount of development for up to three dwellings, within the context I have identified above, would not cause harm overall.
16. The Council also consider that the existing houses are a compact, self-contained historical terrace between settlements, and introducing a modern residential addition of any form would be considered visually incongruous and unacceptable. The appearance and scale of the development is not before me. I am satisfied that, given good design is an intrinsic part of the planning process, a development that positively contributes to the character and appearance of the area, and of appropriate scale, is achievable and need not appear visually incongruous.
17. I therefore conclude that the proposed development would not have an unacceptable impact on the character and appearance of the area. It would comply with Policies 6 and 10 of the County Durham Plan (2020) which requires, amongst other things that new development on unallocated sites or in the countryside must not give rise to unacceptable harm to the intrinsic character and beauty of the countryside either individually or cumulatively, and must not result in the loss of open land that contributes to the character of the locality.

Other Matters

18. I have considered the representations submitted both to the appeal and the initial planning application. Many of the issues that have been raised, particularly in relation to the subsequent design and its impact on living conditions, would be pertinent to the consideration of the subsequent reserved matters, which interested parties would have the opportunity to consider and comment on.
19. In relation to the highways matters that have been raised, there is no substantive evidence before me that would lead me to conclude that the development of up to three dwellings would have an unacceptable impact on highway safety. Concerns in relation to the access to the main road can be dealt with by an appropriate planning condition.
20. Reference is made to the proposal constituting Green Belt development. From the evidence before me this would appear to have been erroneously used in place of 'greenfield'.
21. Concern is raised that the proposal would set a precedent for further ribbon development towards the village. However, no directly similar or comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
22. Reference has been made to the proximity of the site to overhead power lines and that the existing terrace is susceptible to flooding. There is not substantive evidence on either matter that leads me to conclude that development should be prevented on this basis, also neither matter is pertinent to the main issues

of the appeal. A condition can be imposed requiring the submission of a scheme for surface water drainage.

23. Reference is made to the significance and protection of the trees located on the boundary of the site. Although landscape is a reserved matter, the protection of these trees during construction works can be secured through an appropriately worded planning condition.

Conditions

24. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. As the only plan that was submitted that was not indicative was the location plan, a condition specifying that the development is carried out in accordance with the approved plans is not necessary.
25. I have attached conditions relating to the submission of reserved matters and the time limits associated with this.
26. A condition requiring details of foul and surface water drainage is required to manage the risk of flooding. It is required prior to commencement to ensure that any measures needed can be built into the development at an early stage
27. A condition requiring the submission of 1) Tree Survey 2) Arboricultural Impact Assessment 3) Tree Protection Plan, and 4) Arboricultural Method Statement is necessary to ensure protection of landscape features which are to be retained. It is necessary that details are submitted, and tree protection measures are installed prior to commencement of development to ensure the protection of landscape features for the duration of the construction phase and beyond.
28. In the interest of highway safety, I have attached a condition requiring details for the widening of the access. The details are required to be submitted prior to commencement so that such measures can be built into the development at an early stage.

Conclusion

29. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR