The Planning Inspectorate

Appeal Decision

Site visit made on 23 February 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/X1355/W/20/3264324
17 High Hamsterley Road, Hamsterley Mill NE39 1HD

- 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 Ms Nicola Garrington against the decision of Durham County Council.
- The application Ref DM/20/00808/FPA, dated 23 March 2020, was refused by notice dated 8 June 2020.
- The development proposed is Detached dwelling in garden of existing property.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Durham County Council adopted the County Durham Plan (CDP) in October 2020 and this replaces the Derwentside Local Plan. Therefore, the policies that were referred to within the reason for refusal are now replaced by those of the adopted plan. Both main parties are aware of the change in policy and I am satisfied that neither have been prejudiced as a consequence of the change in development plan.

Main Issues

3. The main issues are:

   - Whether the appeal site would be a sustainable location for the proposed new dwelling in respect of access to local services and employment opportunities;
   - The effect on the living conditions of future occupiers with regards to outlook and overshadowing; and
   - Whether or not the proposal would impact upon the trees on site.

Reasons

4. The appeal site is the garden associated with the main dwelling of No 17 High Hamsterley Road within the residential Hamsterley Mill Estate. The site is located at the far end of High Hamsterley Road and abuts the B6319 with an embankment of trees along the boundary with the road. It is located within the defined Area of High Landscape Value. It is surrounded by other residential gardens and all dwellings within the estate are individual in their design.

Accessibility to local services and employment opportunities

5. There are no local amenities within the housing estate and local shops are too far away to be considered to be within favourable walking distance from the appeal site. However, there are bus stops located on either side of Lintzford Road. They serve a public bus service that provides a regular and frequent bus service through the week and weekends including evening service connecting to the larger town of Consett, and the city of Newcastle. Although the service may be affected by the conditions of the Covid-19 pandemic, nonetheless, there is nothing to lead me to the view that a reduced service would remain in perpetuity.

6. The bus stops would be within easy and convenient walking distance from the appeal site via the vehicular road through the housing estate to the pavement on either side of the main road that is lit by streetlamps. As I observed during my visit, whilst there are no footpaths within the estate, the estate road is well used by pedestrians, and together with its low speed limit, would provide a safe pedestrian walking route to this service.

7. In light of the above, I am satisfied that the future occupants of the proposed dwelling would be able to access local amenities and employment providers via alternative means than the private car. This weighs in its favour. I am also aware of a recent Council decision close to the appeal site for a single dwelling at Land to the South West of 3 Fernwood Grove. In terms of promoting sustainable transport, the planning officer describes the site as 'moderately sustainable' and acknowledges the local bus service. They draw the conclusion that 'sustainable modes of transport for the movement of people can be exploited.' This further reinforces the conclusion I have reached on the matter.

8. I am aware of other appeal decisions brought to my attention by the Council. The frequency of the public bus service was an overriding consideration for Inspectors to refuse the proposals, and whilst one appeal site was in walking distance of local services, various constraints rendered walking to be unfavourable, and as they were not furnished with details of the public transport service, the Inspector came to the view that the site was not in a sustainable location.

9. A further appeal for a new dwelling at 6 High Mill Road dates from 2010 and refers to the lack of local facilities. The Inspector came to the conclusion that the proposal would not meet local policy. This appeal decision is some years old and determined under a different development plan and national policy guidance. I have considered the scheme before me on its own merits. Another appeal decision at Hamsterley Hall was a considerably larger housing development and how its transport circumstances compares to the proposal before me has not been demonstrated. Overall, none of the appeals brought to my attention lead me to reach a different view on the matter.

10. Therefore, to conclude, the proposal would comply with the sustainable transport aims of CDP Policies 6 and 21. In addition, it would meet the aspirations of the National Planning Policy Framework (the Framework) to promote sustainable transport.

Living conditions

11. The proposed dwelling would be positioned in close relationship to the existing dwelling. The combined dining/living/kitchen space would represent a large portion of the property. Windows to the west side serving this space are more accurately proposed to serve the dining room. These would be located adjacent to the installed timber boundary treatment at approximately 2.2m in height and the solid stone wall of the main dwelling of No 17 located on the other side of the boundary fence. The outlook for future occupiers from these windows alone would be severely compromised as a consequence. However, the space would be served by other fenestration to its eastern side, towards the garden. The future occupier's outlook from bedroom 3 would also rely on a large single window facing east.

12. There are a number of trees within the garden as well as branches from neighbouring trees that overhang the garden. Trees T25 and T26 are both high value and early mature beech trees at approximately 16m in height. According to the submitted arboricultural report, they have capacity to grow taller although their canopies are identified as 'diameter estimated' within the arboricultural report. These trees would cast a dense shade over the garden and affect light levels into the proposed new dwelling that would largely rely on light from the east side.

13. There may be other examples of neighbouring houses located close to trees, however, taking into consideration this particular scheme, I am of the view that the living conditions of future occupiers would be detrimentally harmed as a consequence of both the bungalow's proposed location within the plot, and from the trees. As the trees are protected by virtue of an Area Tree Preservation Order, there is a presumption that they would not be removed.

14. The large window for bedroom 2 would look towards the boundary enclosure at very close range. The outlook from the window would be obtrusively obstructed by this. Although the room would also be served by a further small window, it would face north and be located close to the main entrance to the property, with limited privacy levels. Even if this is a secondary bedroom, all habitable rooms should be afforded the same acceptable standard of living conditions.

15. The garden may be difficult for the appellant to manage, however, there are options they can explore to manage their garden other than the proposal before me.

16. To conclude, the proposal would give rise to unacceptable living conditions for future occupiers as a consequence of its location and its relationship with trees, and would not meet the standards of the CDP Policies 29 and 31 in their aims to achieve well designed places and for proposed developments to achieve acceptable living conditions. This corresponds with the Framework aims to achieve well-designed places and a high standard of amenity for existing and future users.

17. CDP Policy 6 (a) is not relevant in this circumstance as this seeks to ensure unallocated sites relate to and are compatible with the adjacent site.

Impact on trees

18. There is dispute between the parties with regards to the effect of the proposal on the trees and roots from building works. The protective measures identify no dig construction methods and ground protection required in particular areas along with root friendly surfacing within root protection areas. Conditions could be imposed to avoid breaching the protective fencing thus avoiding damage to trees and roots, together with appropriate arboricultural supervision, should I be minded to allow the appeal. There is no evidence before me to reach the view that harm would arise to trees and roots, or result in a loss of trees that would impact upon the character of the area.

19. On this basis, I conclude that no harm would arise to the roots and trees and thus there is no conflict with CDP Policies 39 and 40 in their aims to conserve and enhance the special qualities of the landscape and to avoid the loss of or damage to trees. In addition, it would meet the objectives of the Framework to protect and enhance valuable landscapes.

Other Matters

20. A single dwelling would provide an additional home to the Borough's housing stock, although the contribution of one bungalow would be small and I apportion limited weight to this addition. Furthermore, there is no evidence provided to lead me to share the view that the Covid-19 pandemic would have an effect on the housing supply, or any evidence that it would be built out quickly, or how it would maintain the vitality of rural communities. There is no evidence presented by the appellant to demonstrate that a bungalow would encourage residents to remain within the community.

21. The contribution of another dwelling by providing employment and the benefits it may bring to supporting local services and spend in the local economy is afforded merit. However, a single dwelling would provide a small contribution and would therefore be of limited weight in its favour.

Balance and Conclusion

22. In terms of its location and access to public transport, I find it would be located in a moderately sustainable location, and by that association, could support public transport as well as reduce energy emissions. This weighs in favour of the proposal, although as a single dwelling, this weight would be very limited.

23. A finding of no harm in relation to the impact on trees weighs neither for nor against the appeal scheme.

24. I have determined that it would result in detrimental harm to the living conditions of future occupiers due to the proposed location of the dwelling as well as its relationship with trees. These fundamental concerns outweigh the positive benefits of the proposal and there are no material considerations which lead me to make a decision other than in accordance with the development plan. Therefore, I conclude that the appeal is dismissed.

Alison Scott

INSPECTOR