
Appeal Decision

Site visit made on 31 August 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2021

Appeal Ref: APP/P2935/W/21/3274737

Land North West of Blue House Farm, Blue House Farm Road, Netherton Colliery NE22 6BD

- 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 Rabinder Bariana against the decision of Northumberland County Council.
 - The application Ref: 20/00925/OUT, dated 13 March 2020, was refused by notice dated 13 November 2020.
 - The development proposed was originally described as an outline permission with some matters reserved for the construction of up to 9no. dwellings.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Rabinder Bariana against Northumberland County Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the banner heading above is taken from the planning application form. The application is in outline form with all matters apart from landscaping to be considered at this stage. Details of the access were made with the application submission, whilst appearance, layout and scale details were provided during the course of the application. Accordingly, I have dealt with the appeal on this basis and I have treated any details related to the matter reserved for future consideration as being illustrative only.
4. The Council's third reason for refusal concerns matters related to the absence of a Section 106 Agreement. The appellant submitted the Section 106 Agreement in draft form with the appeal. I deal with it later in my decision.
5. The appellant provided a Phase II Ground Investigation Report at the 7 week stage of the appeal. The Procedural Guide, Planning Appeals - England makes it clear, however, that new material or technical evidence should not be introduced at this stage. Nor does the other appeal party have the opportunity formally to comment on such evidence. Such rules apply so that the appeal process is fair to all parties. Hence, I have not considered this late evidence in my decision.

6. The Council's reasons for refusal include reference to the National Planning Policy Framework (Framework). A revised version has been published since the Council's decision. The main parties were given the opportunity to comment on this matter during the appeal, and which I have considered in my decision.

Main Issues

7. The main issues are (i) whether the proposal would preserve the setting of a listed building, Blue House Farm; and (ii) the effect on the public health of the future occupiers of the proposed dwellings with regard to land contamination.

Reasons

Listed Building

8. Blue House Farm is a grade II listed building that dates from the early 18th century and is constructed of stone and slate. Its main elevation is orientated southwards and is set out in a symmetrical arrangement that faces over a formal garden area. There are a number of pleasing architectural features, including the bay arrangements, bands and a pediment. A driveway leads up to the house. The rear elevation, which is nearer to the site, is plainer in its form. It has the appearance of a later addition, and also contains a modern porch.
9. The appeal site extends both to the north and west of Blue House Farm. It comprises areas of paddocks that lie on either side of a private access road that leads to a neighbouring property known as The Mill. The appellant has provided historical evidence of subordinate agricultural buildings on the site. It was also evident from my site visit that the paddocks are noticeably associated with Blue House Farm and are distinct from neighbouring and nearby larger fields.
10. As such, the site falls within and forms an important part of the setting of this listed building. The contribution to the significance of the setting derives from this historical association as an ancillary part of the farmstead. As the site is still readily appreciated within this context, this contribution is largely still intact.
11. The siting of the proposed dwellings throughout the site would result in much of the loss of the significance as it would introduce separate dwellings and plots, as well as with the introduction of the associated infrastructure such as the widened access arrangements and parking. As a consequence, it would be considerably less apparent how the site would relate to the setting of the listed building. The proposal would also be in contrast with the buildings that were previously on the site, as they would have been ancillary to Blue House Farm and not a separate and divergent form of development, even if they were laid out in a similar linear fashion and incorporated courtyards.
12. The proposed dwellings that would be located to the west of Blue House Farm would also depreciate from how the main front elevation is experienced. They would be visible within views of the house from the nearest part of the public highway, as well as from the driveway. That they would be marginally set back from the front elevation would make a limited difference. The existing tree cover and additional proposed planting would not satisfactorily address this harm because there would still be the presence of a not insignificant amount of

built form associated with a separate residential development in close proximity to the listed building.

13. Such effects would be compounded by the scale of the proposed dwellings, especially where they would reach a 2 storey height and as their combined lengths would extend across much of the site. Whilst I appreciate that the design has sought to be reflective of Northumberland farmsteads, it is not obvious how the irregular fenestration arrangement and the use of modern metal profile sheeting relates to the significance of the setting of Blue House Farm itself, as a designated heritage asset.
14. The nearby former Netherton Colliery has been drawn to my attention. However, the matter of dispute relates to whether the proposal itself would preserve the setting of the listed building, not how a broader setting may be defined and whether or not this includes the colliery. Its own historical connection to the area does not change my view on the proposal and the related effect on the listed building that is for my consideration. The same applies as regards the effect of the new housing development that is evident on the edge of nearby Bedlington.
15. Whilst I come to the same conclusion on this issue as the previous appeal decision¹ on the site, I have dealt with the proposal before me on its own merits and considered the totality of the evidence, including the appellant's Heritage Impact Assessment. For the reasons that I have set out, the effect on the significance of the setting would not be neutral.
16. The statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses is of considerable weight and importance. Having regard to the above considerations, I conclude that the proposal would fail to preserve the setting of the listed building. This considerably weighs against the proposal.
17. Similarly, the proposal would not comply with saved Policy GP16 of the Wansbeck District Local Plan (2007) (Local Plan) which states that planning permission will not be granted for development which would have an adverse effect on the setting of a listed building.
18. For the purposes of paragraph 202 of the Framework, less than substantial harm would arise. In weighing this harm against the public benefits, these centre on the contribution that the proposal would make towards the minimum housing requirements and the economic benefits. I am however mindful that the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The public benefits would not outweigh the less than substantial harm. The proposal would not comply with the Framework in this regard.

Land Contamination

19. The site is located within an area that was subject to former coal mining activity, associated with the colliery. It is understood that there are shallow workings within the area. The principle risk arises because of the potential for

¹ Appeal Ref: APP/P2935/W/19/3227761

ground gas to migrate to the proposed dwellings and how this may impact on the living conditions of the future occupiers. The Council has pointed to where it considers are shortcomings with the related report that the appellant submitted at the planning application stage.

20. The appellant accepts that appropriate gas protection measures would be needed for the proposed development to take place. It is not therefore a matter of contention that ground gas has the potential to effect the proposal and that such measures are required as mitigation. Clearly, the necessary precautions would be required if I was minded to allow the appeal in relation to remediation and protection measures to ensure that the proposal could proceed safely. However, this would not appear to be a situation where it would rule out the proposal, subject to the imposition of planning condition(s) concerning ground gas monitoring and the related gas protection measures.
21. The Council has also referred to where this has been a concern on a nearby housing development. The information that I have about the nature of the issue that arose is of a limited nature though, including what precautions were applied in that case. Whilst the Council's approach may be understandably cautious, it does not change my view.
22. I conclude that the proposal would not have an unacceptable effect on the public health of the future occupiers of the proposed dwellings with regard to land contamination. As a result, it would comply with saved Policy GP29 of the Local Plan where it concerns land that is affected by contamination and matters in relation to identifying the risk and remediation. It would also accord with the Framework where it is concerned with planning decisions ensuring that a site is suitable for its proposed use taking account of ground conditions, and the likely effects on health and living conditions.

Other Matters

23. The draft Section 106 Agreement provides for financial contributions to off-site sport and play provision and a coastal mitigation service related to protected sites. The Council has welcomed the submission of the draft Section 106 Agreement, so that the financial contributions are secured. At the time of my decision, it was with the Council who consider that the reason for refusal would be addressed on its completion. As a consequence and because I am dismissing the appeal on other grounds, I have not considered this matter any further.
24. I have already set out the benefits that the appellant considers should be attributed to the proposal in relation to housing provision, as well as by way of economic considerations. Support is also afforded insofar as these matters relate to the economic and social objectives of the Framework. The benefits attract moderate weight. However, the harm would be significant as the proposal would not preserve the setting of a listed building. All other matters attract neutral weight, including the accessibility of the site to local services and what the draft Section 106 agreement is concerned with, as well as land contamination. Overall, the benefits would not outweigh the harm.
25. Policy GP1 of the Local Plan, which concerns the location of new development, has a limited bearing because the accordance of the proposal with this policy is not in dispute between the main parties. The same applies as regards the

policies that are in the emerging Local Plan because of the stage that this plan is at in its preparation.

26. With regard to the revised Framework, the national planning policy that it provides on conserving and enhancing the historic environment has not changed, as is relevant to my decision. The strong level of protection that is afforded to designated heritage assets remains in place and so counts against the proposal. This is not altered by the greater emphasis that the Framework places on design. Nor does the presumption in favour of sustainable development apply because the application of policies in this Framework that protect areas or assets of particular importance, namely Blue House Farm as a designated heritage asset, provides a clear reason for refusing the development proposed.

Conclusion

27. The proposal would not preserve the setting of a listed building, Blue House Farm, and this is decisive. Accordingly, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR