



Appeal Decision

Site visit made on 7 June 2022

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2022

Appeal Ref: APP/X1355/W/22/3295429

Land south of 8 Tees View, Gainford DL2 3DX

- 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 Mr John Hett against the decision of Durham County Council.
 - The application Ref DM/21/04277/FPA, dated 20 December 2021, was refused by notice dated 15 February 2022.
 - The development proposed is change of use of land south of 8 Tees View, Gainford to form domestic garden.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the Gainford Conservation Area and the Area of Higher Landscape Value.

Reasons

3. The appeal site is situated to the south of 8 Tees View within the village of Gainford. It comprises an approximately 400m² section of grazing land which is part of a wider grazing strip enclosed by a historic stone wall. The appeal site is situated within the Gainford Conservation Area (CA), the Area of Higher Landscape Value (AHLV) and the Tees Lowlands National Character Area (NCA23).
4. The Gainford Conservation Area Appraisal (CAA) (2013) identifies different character areas within the CA. The appeal site is situated within Character Area 2 - The East End which includes the eastern approach into the village and the impressive Tees View, a row of mixed 18th and 19th Century properties overlooking the orchards, allotments and fields leading down to the rivers edge.
5. The significance of the CA is derived from the historic form and layout centred on the historic core around the village green, and the architectural detailing of the buildings as outlined in the CAA. The CAA also identifies open spaces and woodland within and surrounding the CA as making a substantial contribution to defining the historic and visual character of the village. Indeed, the CAA explains that the area was designated to protect not only the village green and associated medieval street pattern but also the approaches into the settlement from the east and west and the land along the riverbank and the allotments and orchards to the southeast. The appeal site forms part of the open space on the eastern approach to the village, enabling views through the area. The appeal site, therefore, makes an important contribution to the significance of the CA.

6. It is proposed to change the use of the appeal site to a garden for use by the occupiers of 8 Tees View by enclosing the area with a low wooden fence to delineate the plot and to separate it from the grazing land to the east. A hedge is proposed to be added within the boundary of the fence line. Whilst the appellant indicates that he intends to plant fruit trees to the northern section of the garden and wildflowers to the southern section, the proposal would enable the use of the land as a domestic garden including associated domestic paraphernalia such as tables, chairs, and barbeques etc. This clutter would erode the openness of the site and be visually intrusive on the eastern approach to the village. I have considered whether a condition restricting the use of such items would make the proposal acceptable; however, it would severely limit the use of the land as intended and would, therefore, be unreasonable.
7. In addition, the stone wall and copings are identified as an important characteristic of the village in the CAA. At this point, the wall is lower than at the western end enabling views over towards the church. The wall forms an important curved feature lining the road. Whilst not shown on the plans, the proposal would involve the creation of an opening in the stone wall together with a wooden gate which would interrupt the continuous flow of the wall to the detriment of the character and appearance of the area.
8. Furthermore, I noted on my site visit that the land behind the wall is higher and would, therefore, require some engineering works to form a level access to the garden. Although no details are provided of any such works, they would be likely to contribute to the incongruous nature of the proposal. Overall, I consider that the proposal would fail to preserve or enhance the character and appearance of the CA. This harm would be less than substantial. Accordingly, the proposal conflicts with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) act 1990, which must be given considerable importance and weight and with the Framework.
9. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 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 more important the asset, the greater the weight should be. Paragraph 202 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
10. The proposal would have some private benefits to the occupiers of 8 Tees View through the creation of garden space. The appellant contends that the provision of a hedge on the eastern boundary and trees within the site would have a public benefit; however, they would enclose land which was previously open grazing land which would not have a positive effect on the character and appearance of the CA. Consequently, there would be no public benefits which would outweigh the harm which I have identified.
11. Policy 39 of the County Durham Plan (CDP) 2020 states that development affecting the AHLV will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape unless the benefits of development in that location clearly outweigh the harm. The appeal site forms part of an area of grazing land beyond which lies mature trees and a large field which leads to the

River Tees. The open grazing land extends to the east providing an important contribution to the setting of the village and a transition between the village and the countryside beyond.

12. The appellant's Landscape Statement contends that the proposal would not make a material change to the AHLV designation as there are already gardens, orchards and allotments to the west of the site. However, the change of use to a domestic garden would result in the potential for domestic paraphernalia which would reduce the openness of this grazing land and the visual clutter would detract from the setting of the village. Due to the raised nature of the land any such clutter would be highly visible on the eastern approach to the town. Whilst tree or shrub planting could be undertaken without planning permission; I consider that domestic paraphernalia would be more harmful to the character and appearance of the area. Consequently, I consider that the proposal would detract from the character and appearance of the AHLV and would, therefore, conflict with Policy 39.
13. I note that numbers 5, 6 and 7 Tees View have been converted into domestic gardens without the benefit of planning permission. I also note the presence of the orchard/allotments which commence at around number 4 Tees View, and which are referred to in the CAA. I observed on my site visit that there is a clear change in character from the more formal orchards/allotments heading towards the Village Green and the area of open grazing land which extends to the east. The land to the south of numbers 5, 6 and 7 appeared to originally form part of the wider strip of grazing land to the south of Tees View as shown in figure 9 of the appellant's statement. The enclosure of the land with hedges, planting of trees, the presence of garden furniture such as benches and the creation of openings in the wall only serve to demonstrate the harm which has arisen to the open character of the area as a result of the unauthorised changes. In any event, these gardens do not benefit from planning permission and their presence does not, therefore, justify the harm which I have identified.
14. For the reasons stated, the proposal would have a harmful effect on the character and appearance of the Gainford CA and the AHLV. It would, therefore, conflict with policies 6, 29, 39 and 44 of the CDP which collectively seek to ensure that development does not result in the loss of open land which contributes to the character of the locality; achieves well-designed places which contribute to an area's character, identity, and heritage significance and sustain the significance of designated and non-designated heritage assets.
15. Furthermore, conflict arises with paragraph 130 of the Framework which requires, amongst other things, development to be visually attractive and sympathetic to local character and history. Conflict also arises with paragraph 174 of the Framework which requires development to protect and enhance valued landscapes.

Planning Balance and Conclusion

16. Whilst the proposal would have some benefits for the appellant these benefits would not outweigh the significant harm which I have identified. There are no material considerations which would indicate a decision other than in accordance with the development plan. For the reasons stated and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector