



Appeal Decision

Site visits made on 11 May 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4 July 2022

Appeal Ref: APP/W0910/W/21/3287547

Green Area, Dalton-in-Furness LA15 8LJ

- 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 J Slone against the decision of Barrow in Furness Borough Council.
 - The application Ref B13/2021/0657, dated 2 August 2021, was refused by notice dated 27 October 2021.
 - The development proposed is residential development for two dwellings (pair of semi-detached 2 storey dwellings)
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Decision

1. The appeal is allowed, and outline planning permission granted for residential development for two dwellings (pair of semi-detached 2 storey dwellings) at Green Area, Dalton-in-Furness LA15 8LJ in accordance with the terms of application Ref B13/2021/0657, dated 2 August 2021, and subject to the conditions set out in the attached schedule.

Procedural Matters

2. Outline planning permission is sought, with all matters reserved apart from access. I have determined the appeal on this basis and any plans identifying a layout have been considered as indicative only.

Main Issues

3. The main issues are: whether the proposed development would provide a suitable location for housing; the effect of the proposed development on the character and appearance of the area; and the effect of the proposed development on the living conditions of future occupiers with particular regard to noise.

Reasons

Suitable location

4. The appeal site comprises part of an existing farmyard located in Dalton-in-Furness, with mature trees along the southern boundary. It is bounded to the southwest by open fields, and to the north of the site a variety of development and land uses are present. The proposal seeks outline permission for the erection of two residential dwellings at the site.
5. The Council contends that the site is in the open countryside, such that in accordance with Policy H5 of the Barrow Borough Local Plan 2016 – 2031 (the Local Plan) housing would only be permitted if it meets a range of specific local needs. There is no evidence that the proposal would meet such needs. In

addition, open countryside has not been defined in policy, with the Council stating that this is an exercise of planning judgement.

6. The site is located just outside of the main urban form of the town. However, it does not appear as an isolated location. The principal built up area is towards Market Street, providing access to a range of services. I observed that this is a short distance from the site, easily accessible on foot along a main road lined with built form that serves as a visual and physical connection between the two locations.
7. This includes a variety of residential dwellings on Goose Green and Underwood Terrace, along with a church and additional pub. While a small area of land is located between this and the site, along with car parks and a pumping station, this does not create a significant visual transition that would cause a detachment of the site from the surrounding built form of the town.
8. This is due to a row of dwellings immediately north of the site which, rather than being visually separate from the settlement, extends the built form of the town to this location. Although across the Poaka Beck these dwellings remain visible from and alongside the site, particularly on the approach to the proposed access. In this sense the site is experienced in the context of this adjacent residential development, displacing it from the open countryside such that even with its semi-rural character it relates to the built form of the town.
9. While the site is on the edge of the built development of Dalton-in-Furness, it nonetheless visually and functionally relates to it. It is neither poorly connected to or separated from the settlement but, due to the proximity of built form, adjoins and physically relates to the town. I do not consider that it forms part of or encroaches on the open countryside, which is further west in an area more detached from the built form with an expanse of open fields. Accordingly, I do not consider the proposal would be contrary to Policy H5 of the Local Plan.
10. Policy H7 of the Local Plan states that residential development will be permitted where certain criteria are met, and the Council refers to criteria (a) and (k) as being applicable to the proposal. These state that the site should be located within or adjoining the built up areas of Barrow and Dalton or within an identified development cordon. Where located on the edge of Dalton, it must be demonstrated how development integrates within existing landscape features, is physically linked to the settlement, and does not lead to an unacceptable intrusion into the open countryside or result in the visual or physical coalescence of settlements.
11. I have outlined above that the proposal would be adjoining the built up area of Dalton, that it would be physically linked to the settlement and would not lead to an unacceptable intrusion into the open countryside. There is also no evidence to suggest it would lead to coalescence of settlements. With regards to integration with existing landscape features, design is a reserved matter. Nonetheless, I note that the woodland backdrop on the southern boundary outside of the site would remain and that the proposal would be read in the context of residential development opposite.
12. For the above reasons I find that the proposed development would provide a suitable location for housing. As such, it would not conflict with Policies H5 and

H7 of the Local Plan, which among other things seek to ensure housing development is directed towards a suitable location.

Character and Appearance

13. I acknowledge that the site is semi-rural in character due to the current farmyard use. However, while scale, layout and design are reserved matters at this stage, on the basis of the indicative plans the site would be able to accommodate a pair of semi-detached dwellings without appearing cramped or overdeveloped, respecting the nature of the immediate surrounds.
14. In addition, the proposal and any associated residential paraphernalia would be read and experienced alongside the residential dwellings opposite, including when viewed from nearby public rights of way. Rather than consolidating sporadic development, these dwellings serve to continue the built form of the town and the nearby residential use towards the site. In this context, the addition of the proposal would not appear out of place.
15. By maintaining an element of spaciousness and visually relating to the dwellings opposite, subject to its precise design, layout and scale, I find that the proposal would respond to the character of the site and its context, including surrounding uses.
16. For the above reasons, I find that the proposed development would not have a significant adverse effect on the character and appearance of the surrounding area. As such, it would not conflict with Policy DS5 of the Local Plan, which seeks to ensure good design that responds to the characteristics of the site and its context. There would also be no conflict with Policy GI7 of the Local Plan, which relates to the open countryside.

Living Conditions

17. While not mentioned in the decision notice as a reason for refusal, I note that the Officer's Report raises concerns regarding the impact of the proposal on the living conditions of future occupiers due to noise associated with the neighbouring working farm. However, I have no substantive details before me regarding the precise level or nature of activities that take place at the farm.
18. In any event, due to the outline nature of the application, I consider that any such potential effects could be addressed at a later stage in the final design and layout of the proposal to ensure that the proposal integrates effectively with the existing business of the farm.
19. As such, on the basis of the information before me, I find that the proposal would not cause adverse effects on the living conditions of future occupiers with regards to noise. In this sense it would comply with the provisions of the National Planning Policy Framework insofar as they seek to promote that development ensures safe and healthy living conditions.

Conditions

20. I have had regard to the conditions suggested by the Council. Where necessary I have amended and amalgamated them in the interests of clarity and consistency.
21. I have imposed conditions specifying the reserved matters and a timeframe for their submission as well as the standard time frame condition in the

interests of clarity and certainty. A condition is also attached specifying the relevant drawing, as this provides certainty.

22. I have imposed a number of conditions which due to their nature require the submission of details prior to the commencement of development. The imposition of these conditions has been formally agreed by the appellant. The first relates to upgrading of the access, which is necessary to ensure it is of an adequate standard for the development. The remainder relate to site investigations and are necessary to minimise risks from contamination. A condition relating to the testing of soil to be imported to the site is also necessary to minimise such risks.

23. A condition is required for details of drainage having regard to the scale and nature of the scheme and in order to secure proper drainage and manage the risk of flooding. In the interests of nature conservation, the installation of bird and bat boxes are also required and I have imposed a condition in this regard.

Conclusion

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

C Rafferty

INSPECTOR

SCHEDULE OF CONDITIONS

1. Details of the 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 be begun before the expiration of two years from the date of the approval of the last reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. 200_01 Outline Residential Site Location and Block Plan dated May 2021 but only in respect of those matters not reserved for later approval.
5. No development shall take place until a scheme for the upgrading of the unmade access as far as the metalled portion of Green Area including integration into the adopted highway shall have been submitted to and approved in writing by the local planning authority. The scheme shall include details of draining the road surface and a timed program for the delivery of the improvements and the development shall not be occupied until the access has been constructed in accordance with the approved details.
6. No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, including the principles set out in the Flood Risk Assessment & Drainage Statement dated September 2021. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
7. No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- a survey of the extent, scale and nature of contamination;
 - the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
8. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
9. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
10. No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing within 21 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 21 days and approved in writing within 21 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.
11. No soil material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material should be submitted to and approved by the local planning authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out as per the agreed methodology with verification of its completion submitted to and approved in writing by the local planning authority.
12. Prior to first occupation of the dwelling hereby approved details of the makes, models and locations of no fewer than 2 bird boxes and 2 bat boxes shall be

submitted to and approved in writing by the local planning authority. Boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall be erected at the site prior to the first occupation of the dwelling in accordance with the details so approved and shall thereafter be maintained for the lifetime of the development.