



Appeal Decision

Site visit made on 13 December 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 27 January 2023

Appeal Ref: APP/C9499/W/22/3304688

Land East of Town Head Farm, Great Asby, Appleby CA16 6HB

- 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 Messrs Alderson and Chapman against the decision of Yorkshire Dales National Park Authority.
 - The application Ref E/01/38, dated 10 February 2022, was refused by notice dated 6 April 2022.
 - The development proposed is the erection of a dwelling including associated operations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site is located within the Yorkshire Dales National Park and the relevant local planning authority is the Yorkshire Dales National Park Authority (the Authority). The retained development plan for the locality is the Eden Local Plan (2014-2032) (ELP) as adopted by Eden District Council in 2018 and as referred to in the Authority's Decision Notice.

Main Issues

3. The main issues are:
 - whether the proposed dwelling would be in a suitable location having regard to local planning policies;
 - the effect of the proposal on the character and appearance of the Great Asby Conservation Area; and
 - the proposal's effect on highway safety.

Reasons

Whether the proposed dwelling would be in a suitable location

4. Policy LS1 of the ELP sets out the settlement hierarchy for the District and the approach that will be applied in selecting sites for new development. Great Asby is categorised as a 'Smaller Villages and Hamlets'. Development will be permitted where it is of an appropriate scale and reflects the existing built form of the settlement, adjoining and neighbouring development to the site, and the service function of the settlement. The policy also stipulates that for greenfield sites, which is the case for this application, development in these areas will be restricted to, amongst other matters, infill sites which fill a modest gap

between existing buildings within the settlement and meet local connection requirements. It also sets out that villages have been identified on the basis that they contain a coherent and close-knit group of ten or more dwellings, which are well related and in close proximity to each other, or clustered around a central element or feature, as opposed to areas of scattered and poorly related development.

5. The nature of the existing pattern of development is such that the assessment of whether the proposal would infill a modest gap between existing buildings requires a careful exercise of planning judgement, given that the terms 'infill' and 'modest gap' are not defined in the ELP.
6. The appeal site is on the eastern side of a narrow rural lane set within an agricultural field. It sits between an existing modest sized stone field barn and a steel-clad agricultural shed with a separation of about 27 to 30 metres (m). At this location, the lane forms a strong physical boundary that separates the existing housing on the opposite side of the lane from the fields and agricultural buildings opposite. In this setting and building layout, with its set back from the lane, the proposal would appear isolated and poorly related to the coherent and close-knit group of existing properties. From my site observations while some existing housing is located to the same side of the lane as the proposal and there are examples of existing housing being setback, these did not appear as isolated as the proposal.
7. The open character of the appeal site, despite its position between the agricultural buildings, does not create a feeling of enclosure or containment that would be expected from an infill site. Furthermore, the character of the two agricultural buildings differs in terms of scale, orientation, design and materials. In these regards they do not form a coherent building line. The separation between these agricultural buildings does not represent a modest gap, rather they appear as two isolated structures within the field. This is further highlighted by the considerably greater depth of the proposed development compared to the agricultural buildings which would necessitate it being set back within the field.
8. I note the appellant's reference to the dictionary definition of 'modest' and the guidance set out in the Eden District Council's housing supplementary planning document. However, neither of these change my opinion regarding this matter.
9. Furthermore, it has been contended that the proposal would be for local occupancy use, as sought within Policy LS1 of the ELP. However, irrespective of whether or not this could be secured through a planning obligation or condition, as discussed previously, the proposal would not constitute either infilling or rounding off and would therefore be contrary to this policy when taken as a whole.
10. Reference is made to Policy HS2 of the ELP which permits housing in 'Smaller Villages and Hamlets' subject to three criteria: the development constitutes either infilling or rounding off; the dwelling does not contain more than 150 square metres gross internal floor area; and, for greenfield land, a local occupancy restriction shall apply. However, while the proposal would be under 150 square metres gross internal floorspace and could meet local occupancy requirements, notwithstanding the lack of any mechanism to secure such occupancy, as noted above it would not constitute either infilling or rounding

off. It would therefore be contrary to the purpose of this policy when taken as a whole.

11. In conclusion, the proposed development would not be in a suitable location and therefore would be contrary to ELP Policy LS1.

Character and appearance of the Great Asby Conservation Area

12. The appeal site lies within the Great Asby Conservation Area (CA). The Eden District Council Conservation Area Character Appraisal 2007 sets out the key characteristics of the area. This includes the rectilinear layout form of the village with the simple, informal nature of roads, farmyards, verges, small front gardens and stone boundary walls which create a relatively unspoilt character. The buildings form attractive and coherent groups with a strong, distinctive and limited palette of materials and design.
13. The proposal would not relate well to the nearby existing dwellings built form or, due to its proposed position within the more agricultural setting, be a coherent and close knit addition. It would necessitate the loss of parts of the existing attractive and unspoilt small verge, clumps of vegetation and relatively high stone walling which includes the raised area referred to as the milk stand. Even with the building's single storey and traditional look with matching material use to the agricultural and surrounding buildings, the proposed dwelling would look isolated and would be a prominent and dominant feature in the otherwise open grassed field. This would be further highlighted by its setback position from the lane. Furthermore, despite retention of space either side of the proposed dwelling, partial screening provided by the agricultural buildings and the presence of other gaps along the lane, it would be intrusive to the views across the valley. It would adversely affect the unspoilt and spacious character and appearance of the area and this part of the CA.
14. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
15. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a CA, great weight should be given to the asset's conservation. That is still so, irrespective of whether the potential harm is 'less than substantial'. The appeal site's stone wall frontage with milk stand and open field beyond makes a positive contribution to the character and appearance of the designated heritage asset. The harm this proposal would have to the significance of the CA would be 'less than substantial'.
16. In accordance with paragraph 202 of the Framework, the public benefits must be balanced against any harm found. The public benefit of the proposal would be through the creation of an additional dwelling, and the economic benefits associated with construction and in the materials supply chain. However, even if the local occupancy use could be secured by planning condition or obligation, the proposal would only result in the creation of a single dwelling. These benefits would be limited which would not be sufficient to outweigh the harm to the CA.

17. While I note that the appellant's Heritage Statement found the proposal would have a neutral/slight impact on heritage significance, this does not change my view of the harm that I have found, as outlined above, from the proposed access and dwelling in terms of visual intrusion within the streetscape and landscape.
18. While the appellant offers to remove the proposed rear balcony if it is found unacceptable, this would not change the fundamental harm I have found to the character and appearance of the CA. As such the use of a planning condition would not be sufficient to make the development acceptable.
19. In conclusion, the proposal would fail to preserve or enhance the character or appearance of the Great Asby Conservation Area and would cause less than substantial harm to its significance as a designated asset. In the absence of sufficient public benefits to outweigh this harm it would be contrary to policies DEV5 and ENV10 of the ELP and Section 16 of the Framework. These policies, amongst other matters, seek to ensure proposals would complement and enhance the existing area, conserve and enhance heritage assets and their setting and protects and where possible enhances the district's distinctive rural landscape.

Highway safety

20. The lane is narrow and a dead end, serving only the properties and farms along its length and is subject to a 30 miles per hour (mph) speed limit. The proposal includes the formation of a new access onto this lane.
21. The Highway Authority has requested a planning condition requiring visibility splays of 2.4m x 60m in both directions. The proposal would provide visibility splays of 2.4m x 52.3m to the north and 2.4m x 45.4m to the south.
22. The appellant has contended that the Manual for Streets design guide advises that a safe stopping distance for a 30 mph road would be 43m and the Authority has not disputed this. At the time of my site visit I observed that the lane was not heavily trafficked and vehicles using it moved relatively slowly due to the majority of the lane being single carriageway.
23. However, for visibility splays to be acceptable the Highway Authority has advised that the retained stone boundary wall within the splay would need to be lower than 1.05m in height. While it is acknowledged that there is variation in the wall heights within the area, with some possibly being approximately 1m in height, no evidence that the existing walls within the splay would be lower than the 1.05m height has been provided. Due to the contribution the walls make on the CA, I therefore cannot be sure that the visibility splays could be achieved without harming the CA. I therefore consider the visibility splays to be unacceptable.
24. While there is an existing access which does not have sufficient visibility splays, this is for limited agricultural use and not comparable to a dwelling's more regular use. I do not consider that the removal of the existing gate justifies provision of a substandard access for the proposal.
25. In terms of highway safety, I conclude that the proposal would adversely affect highway safety and be contrary to DEV3 of the ELP which seeks, amongst other matters, for development to not impact on road safety.

Conclusion

26. For the reasons given above, there are no relevant material considerations, including the Framework, that would indicate a decision otherwise in accordance with the development plan. I conclude the appeal should be dismissed.

J Symmons

INSPECTOR