



Appeal Decision

Site visit made on 7 March 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2023

Appeal Ref: APP/P2935/W/22/3307323

Land north of Eilansgate, Hexham, Northumberland NE46 3EW

- 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 Jomast Developments Ltd against the decision of Northumberland County Council.
 - The application Ref 19/04687/OUT, dated 26 November 2019, was refused by notice dated 28 July 2022.
 - The development proposed is described as "development for up to 43 residential dwellings (Use Class C3), demolition, infrastructure, access, open space and landscaping (All matters reserved except for access)".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved except for access. I have determined the appeal on this basis.
3. The address of the appeal site detailed in the banner heading above is taken from the decision notice.
4. The scheme is an outline proposal, nevertheless, illustrative details have been submitted and my assessment has been based on these.

Main Issues

5. The main issues are
 - i) Whether the proposal is inappropriate development in the Green Belt;
 - ii) The effect of the proposal on ecology;
 - iii) Whether the proposal would preserve or enhance the setting, character or appearance of the Hexham Conservation Area;
 - iv) The effect of the proposal on drainage and flooding in the area; and
 - v) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposals.

Reasons

Whether inappropriate development

6. Policies STP7 and STP8 of the Northumberland Local Plan 2022 (NLP) relates to the strategic approach to the Green Belt and development in the Green Belt

respectively. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the development falls within the exception list.

7. The appellant describes the purposes of the Green Belt at the appeal site including matters relating to setting, merging/sprawl, contribution to the purposes of the Green Belt, built form and integrity. A description of the development and land that surrounds the site is also provided, noting the boundary of the Golf Club to the north and the site being adjacent to the Hexham Conservation Area (HCA).
8. The proposed development does not fall within the exceptions list detailed in paragraph 149 of the Framework and therefore would be inappropriate development in the Green Belt. The proposal would not comply with Policies STP 7 and STP 8 of the NLP and the Framework.

Ecology

9. A Preliminary Ecological Appraisal (PEA) was submitted with the application which recommended that further ecological survey works should be undertaken to establish the extent of impact to the ecological value of the site. This PEA also recommended that opportunities should be sought to incorporate ecological enhancement schemes within the proposed development.
10. An Ecological Survey Report (ESR) has been submitted with the site assessment of this document covering habitats, bats, birds, badgers, reptiles, designated sites and other protected and priority species. Some trees on the northern edge of the woodland have the potential to be classified as veteran and specimens of the invasive species cotoneaster sp. and rhododendron sp. were recorded within the woodland and garden area of the residential property on the site. Bats and birds were recorded at the site with potential badger field signs recorded within the grassland. The ESR also describes that the unmanaged grassland and scrub provide an area of potentially suitable habitat for reptiles. The site assessment describes that for the majority, the habitat and species are of local value.
11. Species have been identified at the site and the Council have raised concerns that the effects of the development have not been adequately described. Insufficient information has been provided to clarify the extent of protected species on the site and how the proposed development would affect the ecological environment of the site and surrounding area. There is also a lack of evidence with regards to any required mitigation measures and biodiversity enhancements.
12. From the evidence before me, I am unable to be satisfied that the proposed development would not have a harmful effect on ecology. The proposal would be contrary to Policy ENV 2 of the NLP and the Framework which seeks development proposal affecting biodiversity to minimise their impact.

Conservation Area

13. The appeal site sits outside but adjacent to HCA. 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 conservation area.

Moreover, paragraph 199 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

14. The appeal site lies adjacent to the character area of the HCA described as 'Detached Houses' which is defined by large, detached houses constructed as 20th century suburbs set within private walled, or hedged, gardens, with trees and garden hedges obscuring the buildings and softening to roofscape of the houses. Whilst the buildings in the area are individual in their appearance, reflecting different periods of construction, the HCA in this area is defined by the blend of built development and the natural environment.
15. The Hexham Conservation Area Character Appraisal (CACA) highlights the 'major' role of trees in the character and appearance of the HCA. The southern part of the site is predominantly covered by trees which were allowed to mature since the mid 20th Century. The proposal would result in the loss of many of the trees on the site with some trees covered by Tree Preservation Orders also being affected by the development. The site is elevated, and the development would change the visual and spatial contribution the site makes to the surrounding area. However, there would still be significant natural features in the area, including trees along Eilansgate, trees within the golf course to the north and various natural elements to the west with the relatively open spaces of the cricket and tennis areas to the east. Landscaping would also form part of the proposal and therefore I am satisfied that the development would not have an adverse effect on the visual and spatial elements of the area.
16. The linear style of the proposed built form would replicate the linear developments in the area particularly the built development to the west of the site. The proposal would not appear out of keeping or visually intrusive to the existing blend of built development and the natural environment.
17. The proposal would not have a harmful effect on the surrounding area and would preserve the setting, character and appearance of the HCA. The proposal would be in accordance with Policies QOP 1, QOP 2 and ENV 9 of the NLP, Policies HNP2 and HNP7 of the Hexham Neighbourhood Plan 2021 and the Framework which seeks development to have high quality design, make a positive contribution to local character and reinforces the local distinctiveness of the conservation area.

Drainage and flooding

18. A Flood Risk Assessment and a Drainage Philosophy Report have been submitted. These documents conclude that the proposed development was at low risk from all forms of flooding and also covered matters including proposed connection and drainage levels, greenfield run-off rates, information on Sustainable Drainage Systems and calculations of attenuation volumes and its location as well as type of storage.
19. There is, however, insufficient evidence before me to ensure that the proposal would not have an adverse effect on the surrounding area in terms of drainage and flooding. There is a lack of information particularly with regards to discharge location and rate, and attenuation volume and location. Although Northumbrian Water have suggested a planning condition relating to foul and surface water disposal, there is no specific agreement from Northumbrian

Water on matters such as discharge rate which can have a significant effect on the drainage strategy in terms of attenuation volume and location.

20. There would be conflict between the location of the attenuation tanks and proposed properties, with the tank being situated underneath some of the properties. Whilst accepting plans are indicative, given the scale of the development and the constraints of the site, there is uncertainty as to whether suitable attenuation can be provided with the development.
21. From the information provided, I am not satisfied the proposal would not have a harmful effect with regards to drainage and flooding. The proposal would be contrary to Policy WAT 3 of the NLP and the Framework which seeks proposals to minimise flood risk and minimise and control surface water run-off.

Other considerations

22. The proposed development would provide a mix of two and three bedroom properties, comprising 100% affordable housing across affordable rent and shared ownership tenures. This amount of affordable housing would be in excess of the NLP policy requirement for this development. My attention has been drawn to a number of documents including the Hexham 2016 Housing Need Assessment, the Strategic Housing Land Availability Assessment 2022 and Town Centres: Planning for the Future November 2018, as well as a number of NLP policies which relate to the housing requirements for the Central Delivery Area and Hexham. The parties disagree on the matter of affordable housing need and delivery for the Hexham area. The appellant describes that the development would help meet a significant proportion of affordable need for the area with the Council arguing that a 12.5 year supply of housing can be demonstrated at a County level and a Housing Delivery Test result of 280%.
23. The proposed development would provide investment into local community sports facilities including Hexham Golf Club, Tynedale Cricket Club, Tynedale Tennis Club and Tynedale Hockey Club. These Sport Clubs provide an important community asset for the area with the appellant describing that they need investment and funding, with specific investment requirements being identified, to secure their longevity and completeness. Financial statements and records have been provided for some of these Sport Clubs with these records indicating that insufficient capital is available to meet the identified investment requirements, although the records do show that the Sport Clubs are currently on a stable financial footing.
24. A legal agreement has been provided that would secure the affordable housing provision and the investments to the Sport Clubs as described above. The legal agreement would also secure the provision and maintenance of a play area and informal open space as well as contributions towards education and healthcare.
25. I have had regard to the planning history of the site, including planning application 14/03776/OUT. However, I do not consider this previous scheme to be directly comparable to the appeal scheme, particularly with regards to development plan policies. In any case, I have determined this appeal on its own merits.

Conclusion

26. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to

the Green Belt. I am also not satisfied that the proposal would not be harmful in respect of ecology, drainage and flooding matters.

27. The proposal would preserve the setting, character and appearance of the HCA and secure the provision of a play area and open space as well as contributions towards education and healthcare. The proposal would introduce a scheme providing 100% affordable housing and provide investment into local community sports facilities. Due to the scale of the proposal, the housing requirements for the area, the necessity of identified investments and the financial positions of the Sports Clubs, the benefits of the scheme, taken as a whole, would amount to moderate weight in the planning balance.
28. Whilst I attribute moderate weight to the benefits of the scheme, these considerations would not clearly outweigh the substantial harm to the Green Belt. Consequently, the very special circumstances needed to justify the development do not exist and the proposal fails to meet paragraph 148 of the Framework.
29. The proposed development would conflict with the development plan and the Framework as a whole and for the reasons given above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR