
Appeal Decision

Site visit made on 23 May 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2023

Appeal Ref: APP/P2935/W/23/3318812

Plots 1 + 2, Castlehills, Berwick-upon-Tweed, Northumberland TD15 1PB

- 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 Mike Burley against the decision of Northumberland County Council.
 - The application Ref 22/01121/FUL, dated 26 April 2022, was refused by notice dated 20 December 2022.
 - The development proposed is new dwelling house + outbuilding + associated works to building plots 1 + 2.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first main issue is the suitability of the site for the proposed development having regard to the development strategy for the area and whether there would be sole reliance on the use of a private car. The second is the effect of the proposal on the integrity of the Northumbria Coast Special Protection Area (SPA) and Ramsar Site and the North Northumberland Dunes Special Area of Conservation (SAC).

Reasons

Suitability of location

3. The appeal site is located on an access track which runs south from the A6105 and the evidence indicates that the site falls within the countryside outside of the Berwick-upon-Tweed settlement boundary. The track and existing residential dwellings that sit both to the north east of the appeal site and immediately to the south west on the western side of the track are within a dip in the landscape, with grazing fields to either side.
4. Despite this, the appeal site is located only a short distance from the A6105. After walking along a short section of the track, in the main past the existing houses, any future resident would not have an excessive walk or cycle along the lit road which includes footways to gain access to the wide range of services and facilities within Berwick-upon-Tweed, nor the railway station which is situated on the east coast main line.
5. There would therefore be a real alternative to private car use to access day to day services and facilities within what is identified as a main town at the top of

the settlement hierarchy within the Northumberland Local Plan (2022) (NLP). As a result, the appeal site cannot be considered an unsustainable location.

6. I acknowledge that under the provisions of the NLP the proposal would represent residential development in the countryside of the type that is not supported through policies STP1, STP2, STP3 and HOU 8 of the NLP.
7. However, the proposed dwelling would be appropriate in its form and scale and would be set down within the landscape between existing residential development. The location of the site would be sustainable and would not compromise the development strategy for the area. The proposal would not result in a dependency on the private car to access services and facilities.
8. I therefore conclude on this matter that whilst the proposal would not fully accord with policies STP1, STP2, STP3 and HOU 8 of the NLP, the specific matters relating to the location and setting of this site should be afforded significant weight such that they outweigh the conflict with these policies.
9. Given the particular and specific characteristics of the location of the site, the proposal would not involve the development of an isolated home within the Countryside and the scheme would not therefore conflict with paragraph 80 of the Framework¹, nor paragraph 78 which is detailed within the first reason for refusal.

Northumbria Coast SPA and Ramsar Site and the North Northumberland Dunes SAC

10. The appeal site falls within the zone of influence for coastal sites designated for their important bird communities. The proposal would involve new residential accommodation and could therefore result in impacts on the designated sites arising from increased recreational disturbance. An impact pathway is therefore present.
11. It cannot subsequently be concluded that the proposal would not have an adverse effect on the integrity of the SPA, Ramsar Site or the SAC. The evidence indicates that the Council operates a Coastal Mitigation Service to mitigate for potential impacts from increased recreational disturbance arising from new residential development.
12. The evidence indicates that the contribution per unit is £615. However, no planning obligation is included to make provision for this payment and therefore as it stands, no mitigation is included within the scheme.
13. The proposal would therefore conflict with Policy ENV2 of the NLP which amongst other matters states that in relation to development proposals affecting biodiversity, adverse impacts will be adequately mitigated. There would also be conflict with the Framework, which at paragraph 174 advises that planning decisions should contribute to and enhance the natural environment by minimising impacts on biodiversity.
14. It can be possible to use a negatively worded condition to prohibit development authorised from taking place until a specified action has been taken (for example, the entering into of a planning obligation to secure a financial contribution towards offsetting the impact of a proposal). However, in line with

¹ National Planning Policy Framework 2021.

guidance on the use of planning conditions there are no exceptional circumstances before me to justify such a condition².

Other Matters

15. I note the comments from the appellant in relation to the second refusal reason. However, the evidence does indicate that the Council has raised this matter with the appellant and I afford this matter limited weight.
16. The evidence indicates that there has been a previous outline permission at the appeal site (Ref 17/03673/OUT). However, there is no compelling evidence before me within this appeal to indicate that this permission remains extant in relation to the development site. I therefore afford this matter limited weight.

Planning Balance and Conclusion

17. The proposal would result in the provision of one well designed dwelling which would contribute towards housing supply. However, this benefit would be outweighed by the harm identified above.
18. Whilst I have found that there are matters which outweigh the conflict with the development plan relating to the first main issue, I have found conflict relating to the second main issue which I afford substantial weight.
19. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

² Gov.uk – DLUHC & MCLG Guidance use of planning conditions Paragraph: 010 Reference ID: 21a-010-20190723.