



Appeal Decision

Site visit made on 23 April 2024

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal Ref: APP/P2935/W/24/3337803

Hartbank, Hartburn, Morpeth, Northumberland NE61 4JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sean McWilliam against the decision of Northumberland County Council.
 - The application Ref is 23/04096/FUL.
 - The development proposed is the construction of a two-bedroom detached eco-home (self-build), with solar panels.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposed development on the openness of the Green Belt;
 - Whether the site location is otherwise suitable for residential development, having regard to development plan policy governing proposals within the open countryside;
 - The effect of the proposed development on the character and appearance of the appeal site and surrounding area;
 - The effect of the proposed development on the setting of Hartburn Bridge, which is Grade II Listed;
 - Whether the proposed development would promote sustainable travel and provide safe access and egress for all modes of transport.
 - The effect of the proposed development on biodiversity; and,
 - Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate development

3. The Northumberland Local Plan 2016-2036 (2022) (NLP) Policy STP 7 sets out

the strategic approach to the Green Belt and NLP Policy STP 8, amongst other things, explains that in assessing development proposals within the Green Belt, development that is inappropriate in the Green Belt, in accordance with national planning policy, will not be supported except in very special circumstances where other considerations clearly outweigh the potential harm to the Green Belt, and any other harm resulting from the proposal. It then goes on to state that development, which is not inappropriate in the Green Belt, as defined in national planning policy, will be supported.

4. Paragraph 154 of the Framework explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. This is subject to the exceptions at a) to g). The proposed development would not fall within any of these provisions, including f) in relation to affordable housing/rural exception sites, which I shall explain in greater detail later in this decision. As a consequence, the proposal is inappropriate development which is, by definition harmful to the Green Belt and should not be approved except in very special circumstances¹.

Effect on openness and purposes of Green Belt

5. Paragraph 142 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that both aspects need to be considered.
6. I recognise that the development is for a single dwelling, simple in its single storey design and would occupy a small section of the site. Additionally, I accept that the design measures incorporated into the scheme, such as setting the building into the site to create a partially subterranean structure, would to some extent reduce its visual impact. Nonetheless, the development introduces bulk and massing to the site and therefore, in spatial terms, would have a harmful impact upon the openness of the Green Belt.
7. It follows that whilst the development through its design would be less visually intrusive than a traditional designed dwelling, in terms of openness, it would nonetheless, attract associated domestic paraphernalia, which would add to the overall impact. However, it follows that the proposed development would not visually intrusive in terms of openness, it would nonetheless, have a harmful impact on openness due to its spatial characteristics. For these reasons, I conclude that the proposed development results in a moderate loss of openness to the Green Belt. As such, it would be contrary to the requirements of the Framework.

Location

8. The NLP lists Hartburn as a small village in the Central Delivery Area. The appeal site is located off the B6343, which runs through Hartburn, which in turn does not have a settlement boundary. The site is washed over by the Green Belt, and is therefore located in the open countryside. Consequently, development will be supported, subject to it being demonstrated that it adheres to one or more criteria, which in this case, NLP Policy STP 1 (g) is relevant. This criterion is whether the proposal provides for residential

¹ Paragraph 152 of the Framework

development in accordance with Local Plan Policies HOU 7 or HOU 8. None of the other criteria apply.

9. NLP Policy HOU 7 is concerned with exception sites. Criterion 3 of this policy explains that self-build, custom-build and community-led housing projects will be supported if they meet the requirements of criterion 2 of this policy. This sets out the development of Small Rural Exception Sites that would not normally be used for housing within, adjacent to or well-related to an existing settlement will be supported where they meet four criteria. However, given its loose connection, the appeal site would not be well-related to the existing settlement. Consequently, the proposed development would not be in keeping with the form, character, and landscape setting of Hartburn. There is also no mechanism to secure affordable housing, substantiated by an up-to-date local housing needs assessment or other evidence of local housing needs, albeit I have considered the personal circumstances of the appellant in this regard. Furthermore, there would be adverse impacts on the natural, built and historic environment, which I shall cover in more detail later in my decision.
10. Additionally, criterion 3 seeks for self-build, custom-build and community-led housing projects to be supported as rural exception sites if they meet the requirements of criterion 2. Thus, as I have found a lack of compliance with criterion 2 of NLP Policy HOU 7, I do not consider the proposed development to represent a rural exception site. Despite my findings on NLP Policy HOU 7, given the location and distance of the proposed dwelling from existing properties in Hartburn, I do not consider the proposed development would represent an isolated home in the open countryside. As such, NLP Policy HOU 8 is not relevant in this instance.
11. For the reasons given above, the location of the site is unsuitable for residential development, having regard to development plan policy governing proposals within the open countryside. Thus, there is conflict with NLP Policies STP 1 and HOU 7, which collectively seek to set out how development in the open countryside will be managed. Furthermore, the proposed development would also be contrary to the requirements of the Framework.

Character and appearance

12. When excluding any unauthorised development on site, the appeal site comprises an undeveloped parcel of land in the open countryside. Reference has been made towards the site being in an Area of High Landscape Value, but this view has not been supported by any development plan policy. Nonetheless, the proposed development would be located away from other existing built development within an open field. The site retains a natural and rural appearance with features that contribute positively to the character and appearance of the site and surrounding countryside.
13. I accept that the appellant has attempted to reduce the visual impact of the dwelling, through its subterranean design. Whilst a case has not been presented to consider the proposed development as exceptional quality, I do find that it has taken a creative approach with regard to its contemporary design. Additionally, it is obvious that care has been taken through the design of the dwelling, so to be less obtrusive within its setting than a dwelling of a more traditional design.
14. However, I find that the overall size and scale of the proposed dwelling,

including the associated domestic paraphernalia and activities that would occur as a consequence of the scheme, would adversely impact upon the rural character of the site and the surrounding area. Additionally, given the surrounding topography and taking into account the existing mature vegetation in the locality, and the overall distance of the site from the B6343, the scheme would still be clearly visible. I have considered whether suitably worded conditions for additional landscaping could be imposed to ensure that otherwise unacceptable development could be made acceptable, but this is not possible in this instance to overcome the visual harm identified.

15. For the reasons given above, I conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. Thus, the scheme would fail to accord with the design aims of NLP Policies HOU 9, QOP 1, QOP 4, ENV 3 and ENV 4 which together seek for residential developments to contribute to a sense of place; make a positive contribution to local character and distinctiveness and contribute to a positive relationship between built and natural features, including landform and topography; high quality design, to create a sense of place; make a positive contribution to local character and distinctiveness and contribute to a positive relationship between built and natural features, including landform and topography; respond appropriately to any existing landscape features; landscape character and urbanising effects, amongst other things. The proposed development would also be contrary to the requirements of the Framework.

Heritage asset

16. A number of heritage assets, including the Church of St Andrew, which is Grade I listed is located in the vicinity of the site. This is acknowledged by the Council. However, the Council has only raised concerns surrounding the effect of the proposed development on Hartburn Bridge, which is Grade II listed (the bridge). In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. In the absence of substantive evidence to the contrary, I only consider the setting of the bridge would be affected by the proposed development.
17. The bridge is located over the Hart Burn and its significance derives primarily from its historic and architectural features. The bridge dates back to the eighteenth century and was widened in 1850. The earlier part of the bridge comprises squared stone, whilst the later elements from the nineteenth century sections comprise rock-faced stone with tooled and margined dressings. Whilst the B6343 crosses the bridge, the surrounding trees and countryside positively contribute to the rural setting of the bridge. As identified on the previous main issue, the site can be clearly seen when travelling along the B6343 towards Hartburn.
18. Consequently, the proposed residential development would be on a parcel of land that currently contributes to the rural setting of the bridge. As the scheme would introduce built form to the site along with associated domestic paraphernalia, this would be to the detriment of the rural setting of the bridge. In light of the above, I find that the proposed development would cause harm to the setting of the bridge and its significance, contrary to the requirements of section 66(1) of the Act.

19. In accordance with paragraphs 205 and 208 of the Framework, it is for the decision maker having identified harm to the designated heritage asset, to consider the magnitude of that harm. In this case I conclude this should be considered as 'less than substantial' when considered in the context of the asset. In such circumstances the Framework requires that any identified harm is weighed against any public benefits the works might secure. Although, I consider the harm to the bridge would be 'less than substantial', it is nonetheless a level of harm to which significant weight should be attached.
20. The appellant considers that the proposed development would deliver an affordable home, significant natural environmental enhancements to the site and that he would be available to provide property maintenance and building work services to those living in the local area. There is no mechanism to secure affordable housing, no substantive evidence to support the view surrounding the natural environment enhancements or such demand for services, to warrant a dwelling in this location. Even if the proposed development resulted in the benefits listed by the appellant, and be categorised as public benefits, those benefits individually or combined would not outweigh the harm I have identified to the heritage asset.
21. For the reasons given above, I conclude that the proposed development would fail to preserve the setting of the bridge. In the absence of sufficient public benefits to outweigh these harms, I conclude the works and development would be contrary to the heritage aims of NLP Policy ENV 7, where development proposals would cause less than substantial harm to the significance of a designated heritage asset will be weighed against the public benefits of the proposal, amongst other things. The proposed development would also be contrary to the requirements of the Framework and the Act.

Sustainable travel and safe access and egress

22. The site would be accessed from the B6343 to the east. The response from the Council's Highways Development Management Technician (HDMT) indicates that some aspects missing from the appellants submission could be secured by means of condition. However, there are some aspects which require attention and cannot be overcome through the imposition of a suitably worded condition.
23. The Council is of the view that the proposed development is contrary to NLP Policy TRA 1, which relates to sustainable connections and seeks to ensure accessible development and reduce the need to travel by car. Whilst recognising opportunities to maximise sustainable transport solutions will vary between urban and rural areas, there is nothing before me that identifies other opportunities exist to travel or access shops and services other than by car.
24. Additionally, whilst there is an existing access serving the site there are no detailed plans of the site access that demonstrate the necessary visibility splays required for the scheme could be achieved. In the absence of such information and given the location of the site access, I am not convinced that the proposed development would not lead to conditions prejudicial to highway safety. There is also a lack of detail surrounding the storage and servicing of refuse, albeit I am less concerned about this aspect given the site area and the potential for this element being overcome through the imposition of a planning condition.
25. For the reasons given above, I conclude that the proposed development would

not promote genuine alternative methods of sustainable transport and would unacceptably harm highway safety. Thus, the scheme would fail to accord with the sustainable travel and highway safety aims of NLP Policies TRA 1 and TRA 2, which together seek to reduce the need to travel by car, provide effective and safe access and egress to the existing transport network, amongst other things. The proposed development would also be contrary to the requirements of the Framework.

26. NLP Policy TRA 4 has been referred by the Council on its decision notice. However, the Council's HDMT has not raised any objections regarding parking provision in the proposed development and therefore I find it is not directly applicable to the case before me. Additionally, its inclusion on the decision notice is not substantiated in any other way.

Biodiversity

27. NLP Policy ENV 2 seeks for development proposals affecting biodiversity, to minimise, mitigate and/or compensate for their impact, and secure a net gain for biodiversity. This echoes relevant provisions within the Framework including Paragraphs 180 and 186 which state 'decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity', and 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.'
28. In support of their application the appellant has provided an Ecological Impact Assessment by E3 Ecology Limited, dated 9 October 2023 (the EIA). The Council's ecologist acknowledges the EIA and its findings, including that the main habitat on site is grassland, with the eastern third being classified as semi-improved natural grassland, with the remainder considered to be species-poor semi-improved natural grassland.
29. To the southeast of the site is the Hart Burn, which is part of the Hartburn Woods Local Wildlife Site and is a tributary to the River Wansbeck. The EIA identified an otter lay-site opposite the site boundary and a small number of White-Clawed Crayfish were seen on the riverbed. There is no dispute that both species are considered Species of Principal Importance under s41 of the National Environment and Rural Communities (NERC) Act 2006, whilst otters are also afforded protection under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981. The deciduous woodland surrounding the site is recorded as Habitat of Principal Importance under s41 of the NERC Act 2006.
30. Whilst the Council accept that a suitable future water treatment plant could be secured through the imposition of a suitably worded planning condition, it is concerned that due to the location of the site with the field it would encourage the use of the remaining field for ancillary residential purposes, undermining the recommendations contained within the EIA. I do not share these concerns raised by the Council, particularly as controlling this aspect of the development could be managed through the imposition of a suitably worded condition, along with any recommendations in the EIA. The site area to be developed is clear and precise and any development or change of use outside the site proposed area would be enforceable, requiring permission in its own right. Given the biodiversity implications that would require safeguarding from a residential development would ensure that any condition to this effect would be

reasonable. Consequently, a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.

31. For the reasons given above, I conclude that the proposed development would not result in any significant harm to any habitat or species. Thus, the scheme would accord with the biodiversity aims of NLP Policy ENV 2, which seeks for any adverse impacts to be adequately mitigated, secure a net gain for biodiversity, maximise opportunities to incorporate biodiversity, and ecological enhancement for species of conservation concern, through additional built-in or planted features, amongst other things. The proposed development would also accord with the requirements of the Framework.

Other Considerations

32. The recent planning history on the site, included appeals² (the previous appeals) surrounding the removal of a caravan and rubble/building materials from the land, then the land restored to its former condition. Subject to a number of variations, the enforcement notice was upheld.
33. I am provided with evidence setting out the appellant's personal circumstances and that the proposed development is necessary as he and his wife are currently homeless, since the caravan, subject of the previous appeals has been removed from the site. The appellant also highlights that he is a self-employed small builder/gardener/handyman where he has worked in the local area, including Hartburn, Netherwitton and Whalton Parishes for a number of years. Prior to the eviction from his home in the parish of Netherwitton where he lived for 12 years, he lived in the wider local area of Hebron, Fenrother and Causey Park for 38 years.
34. I have therefore had regard to Article 8 of the Human Rights Act 1998 (the Act 1998) as the dismissal of this appeal has the potential to impact on the housing needs of the appellant, specifically as he considers himself to be homeless. I have no doubt that the appellant and his wife have faced very difficult circumstances in the events leading to this appeal, in their desire to live on the site. However, I have been presented with no substantive evidence that demonstrates that no other form of accommodation would be obtainable, or that other options have been fully explored. Additionally, whilst I have no doubt that the appellant undertakes some local work, as evidenced through the submission of details of local customers, I am not convinced that the overall level of local work is to an extent that justifies an essential requirement to live at the site.
35. The provision of self-build and affordable housing are mentioned as other considerations. There is no evidence regarding the self-build register and the need to deliver this type of housing has not been demonstrated. Even if there is a deficit, the proposed development would make a minimal contribution and, in any event, there is no legal agreement securing its provision. Furthermore, whilst the appellant sets out that the proposed development would be affordable, details of this are limited and there is no suitable mechanism to secure the delivery of the proposed dwelling as an affordable unit, which would enable me to attribute any weight.
36. My attention has been drawn towards a scheme in Hartburn that received

² APP/J4525/C/20/3246343 & 3246344

planning approval in 2020 for the construction of a single modern detached dwelling at Hartburn House³. However, little information has been provided and the full details of the scheme are unknown for the development. Consequently, I can only attribute little weight to it.

Other Matter

37. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

38. The Framework requires that substantial weight is given to any harm to the Green Belt and states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposed development, is clearly outweighed by other considerations. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that substantial weight is given to any Green Belt harm.
39. I accept the absence of other harm arising from the proposed development, including biodiversity. However, I have concluded that the appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and the other harms identified. Accordingly, there is conflict with national policy and the development plan when taken as a whole, and there are no other material considerations that indicate the appeal should be determined otherwise.
40. Whilst sympathetic to the situation that the appellant finds himself in with regard to housing, having carefully considered his personal circumstances, the benefits of the appeal scheme and all other considerations, I find that individually and cumulatively, they do not clearly outweigh the substantial weight given to Green Belt harm and/or the other identified harms. Consequently, the very special circumstances required to justify the proposed development do not exist.
41. In considering this appeal, I have had due regard to Article 8 of the Act 1998 and the Public Sector Equality Duty set out under Section 149 of the Equality Act 2010. Following careful consideration of the personal circumstances advanced by the appellant, I am satisfied that the impact of dismissing the appeal is proportionate and necessary.
42. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

³ 20/02768/FUL