



Appeal Decision

Site visit made on 22 April 2025

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2025

Appeal Ref: APP/U2750/W/25/3359331

The Smallways Inn, Low Lane, Newsham, North Yorkshire DL11 7QW

- 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 Mandale Homes against the decision of North Yorkshire Council.
 - The application Ref is ZD24/00354/FULL.
 - The development proposed is demolition of the existing public house and the erection of 9no. dwellings, together with landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of their appeal submission, the appellant has provided Detailed Landscape Proposals¹, a Biodiversity Net Gain (BNG) Assessment², a Preliminary Ecological Appraisal³ (PEA), a Bat Survey Report⁴ and a Drainage Strategy⁵. While these were submitted after the Council's decision, they are in direct response to the reasons for refusal and do not substantively alter the proposal. Moreover, the parties in the appeal have had an opportunity to comment on them through the appeal process and so my consideration of them would not give rise to procedural unfairness. I have therefore had regard to these documents in the appeal.

Main Issues

3. The main issues are:
 - Whether the appeal site provides a suitable location for the development, with regard to the Council's spatial strategy;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on ecology, including protected species, and whether it would provide a biodiversity net gain (BNG); and
 - Whether the proposed surface water drainage measures are acceptable, with particular regard to the surface water drainage hierarchy.

¹ Drawing No 4121/1 Date 17 Sep 24

² Ref No: 240626 Date: 1st November 2024

³ Ref No: 240624 Date: 25th September 2024

⁴ Ref No: 240624/BAT Date: 23rd October 2024

⁵ Doc No: 24058-LE-ZZ-05-RP-D-0001 Rev: P01-S2 Date: 23/12/2024

Reasons

Whether the appeal site provides a suitable location for the development

4. The site comprises a former public house and associated land to the south of the A66 dual carriageway. It is beyond the development limits of the nearest village at Newsham, in the North Richmondshire sub area identified in Policy SP1 of the Richmondshire Local Plan 2012-2028 Core Strategy Adopted 9 December 2014 (the Core Strategy). Policy SP1 indicates that the strategic approach in this area is one of more modest growth, reflecting its largely rural nature, the limited services available and the need to resist development pressure from the Tees Valley.
5. Newsham is part of a small cluster of Secondary Service Villages identified in Policy SP2 of the Core Strategy. Policy SP4 sets out the target scale and distribution of housing development across the area up to 2028, with 4% of this to be provided in Secondary Service Villages in North Richmondshire. Policies CP4 and CP8 of the Core Strategy clarify that development proposals should be in or adjacent to a settlement's development limits, or its main built-up confines. In all cases, they must be accessible and well related to existing facilities.
6. The appeal site is approximately 1km from the edge of Newsham. Several large agricultural fields sit between them. The road to the village features no dedicated footpath or street lighting, and no dedicated cycle route. There is limited information before me regarding the local bus network, and I did not observe a bus stop in the vicinity of the appeal site during my site visit. The site is thus considerably segregated from the village.
7. Moreover, the cluster of Secondary Service Villages which Newsham is part of is small, with services shared between them. Newsham itself features only a limited selection of services, including a bus stop and village hall. Other facilities, including a primary school at Ravensworth, are available elsewhere in the cluster, however these are further still from the appeal site and so even less accessible.
8. The appeal site is thus not adjacent to the settlement's development limits or main built-up confines, and it is not well related to existing facilities or accessible by means other than the private car. The proposal would therefore conflict with the spatial strategy set out within the development plan in this regard.
9. While Policy CP3 seeks to encourage developments to utilise previously developed land first, this is on the provision that the land is in a sustainable location. It also requires that development minimises the need to travel, as far as possible, including by providing convenient access via foot, cycle and public transport, and reducing the need to travel by private car. This policy would thus provide little support for the appeal proposal.
10. The evidence indicates that planning permission has previously been granted for conversion of the public house to 4 residential dwellings⁶. Nevertheless, that proposal was clearly materially different to the appeal scheme before me. The re-use of redundant or disused buildings aligns with Core Strategy Policies CP2, CP3 and CP8 and Paragraph 84 of the National Planning Policy Framework (the Framework). Moreover, the appeal scheme would provide over double the number of units and so the harm arising from its limited accessibility would also be greater.

⁶ Council Ref ZD23/00684/FULL

11. My attention has been drawn to caselaw⁷ concerning the definition of “isolated homes in the countryside” in the context of paragraph 84 (formerly paragraph 55) of the Framework. The Courts have found that the word “isolated” simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, “isolated” in this context is thus a matter of fact and planning judgment for the decision-maker in the circumstances of the case.
12. I recognise that there are some dwellings in the vicinity of the appeal site, however these are few in number and sporadically laid out along the lane. There is also a roadside inn and a car repair garage nearby, which provide services for passing traffic on the A66. Collectively they do not form a recognisable settlement or community. The site is otherwise surrounded by agricultural land and woodland.
13. In view of this, and my findings above regarding the relative inaccessibility of the site and its physical separation from the nearest village, the proposal would represent the development of isolated homes in the countryside. It would not benefit from any of the exceptions set out in Paragraph 84, and so would also conflict with the provisions of the Framework in this regard.
14. The appeal site thus does not provide a suitable location for the development, with regard to the Council’s spatial strategy. The proposal would conflict with Policies SP1, SP2, SP3, SP4, CP4 and CP8 of the Core Strategy in this regard. These policies, among other provisions, set out the settlement hierarchy and the strategic approach to development, they seek to direct development to support local services, facilities and employment opportunities, reducing the need to travel and ensuring it is of an appropriate scale and nature, while maintaining the sustainability of the rural area.

Character and appearance

15. The existing pub is a part 2-storey, part single storey building. It features an irregular footprint that appears to have been extended incrementally over time. The building is finished in a white painted brick with grey and red roof tiles. It is setback from the road behind a grass verge. The surrounding plot is somewhat open, with limited boundary enclosures and intervisibility between the tarmac parking area and rear garden space. There is a drop in elevation towards the A66, leaving the pub significantly exposed from public vantage points.
16. Notwithstanding the handful of buildings nearby, and the dual carriageway to the north, the surrounding area is predominantly rural. Fields extend away from the appeal site in all directions, demarcated by trees, hedgerow, rural fences and traditional walls. There is limited urban influence, and the development that does exist is modest in size and / or in keeping with the rural character of the area.
17. The appeal proposal would replace the existing pub with 9 dwellings arranged in a terrace, joined in the middle by a timber canopy covering a shared driveway leading to a large rear parking area. The dwellings would be 2-storeys and finished in stone, with varying eaves and ridge heights, decorative chimney stacks, and stone heads and sills to windows and doors. The cottage-style design and use of traditional materials and features would not look out of place in the local villages.

⁷ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

18. Nevertheless, the development would represent an appreciable increase in floorspace at the site. It would extend across the width of the frontage. The dense terraced layout, with modest rear gardens and expansive surface parking would not reflect the sporadic and detached nature of nearby residential development. Its increased mass, boundary treatments and hard surfacing would have an urbanising influence on the immediate area. It would be prominent in views from the A66 due to the site's topography and would considerably close the gap that currently exists between the pub and the neighbouring inn. The proposal would thus detract from the prevailing rural setting of the area.
19. The proposal would have a harmful effect on the character and appearance of the area. It would be contrary to Policies CP3, CP4, CP12 and CP13 of the Core Strategy in this regard. These policies, among other provisions, seek to ensure that development is high quality, respects and enhances the local context and its special qualities and promotes the character and quality of the local landscapes and wider countryside.

Ecology, including protected species and BNG

20. Much of the proposed development would be built on the site of the existing pub and surrounding hard surfaces. However, a large surface car park to the rear would replace part of the existing grassland to the north of the site, and there are some areas of tree cover that would be affected. Existing buildings on site also have the potential to accommodate bats. Additionally, the submitted PEA highlights that there are 3 ponds within 500m of the survey area, at least 2 of which appear to be suitable for great crested newts (GCN).
21. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) requires a competent authority, in exercising any of its functions, to have regard to the requirements of the Directives so far as they may be affected by the exercise of those functions. This applies to any proposal that might lead to the deterioration or destruction of the breeding sites and resting places of European Protected Species (EPS) under Article 12(1) of the Habitats Directive⁸.
22. Without further surveys it is unknown whether GCN could be impacted by the proposals. The PEA recommends a further eDNA survey be carried out. Should the survey yield a positive result, further surveys would be needed to determine population size. An EPS Mitigation Licence may need to be obtained from Natural England (NE) or, alternatively, an application can be made for district level licensing (DLL), which would avoid the requirement for surveys to be carried out and any mitigation measures.
23. It is not clear from the evidence whether the requisite GCN surveys have been carried out, or whether the appellant intends to pursue an EPS Mitigation Licence or DLL, in the event GCN would be impacted. Notably, a countersigned Impact Assessment and Conservation Payment Certificate has not been provided. Based on the evidence, I therefore cannot be sure that the proposal would be acceptable in the context of Article 12(1) or could be made acceptable subject to mitigation. Accordingly, it has not been demonstrated that there would not be harm to the long-term conservation status of GCN.

⁸ Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora

24. With regard to bats, two dusk bat emergence surveys were carried out in August and September 2024. Bat activity during the survey was extremely low. No roosting bats were seen to emerge from the main building and all other buildings and trees were assessed as having negligible bat roosting potential. The site provides moderate value habitat for foraging and commuting bats. The Bat Survey Report concluded that, the proposal would have no impact on roosting bats and, provided a suitable planting scheme is delivered on site, it is unlikely that there would be any negative impact on foraging and commuting bats at a local level.
25. The PEA did not identify any harmful impacts on any other protected species, provided suitable mitigation and avoidance measures are put in place.
26. The submitted BNG Assessment concludes that the overall development will result in a 14.92% BNG, when accounting for the additional land within the appellant's control. With this, the scheme would achieve above the requisite 10% BNG. While there appears to be some discrepancy between the findings of the BNG Assessment and the completed metric provided, the appellant has confirmed that they have undertaken a revised version of the metric with the requisite BNG. Were I minded to allow the appeal, it would have been necessary to explore this further, and the mechanism for securing long term maintenance of any proposed landscaping, prior to the grant of planning permission.
27. Nevertheless, based on the evidence before me and my own observations, I am satisfied that the requisite BNG could be secured through the provision of a Biodiversity Gain Plan as part of the discharge of the mandatory BNG condition.
28. While I have found that the proposal would provide a biodiversity net gain and would not cause harm to bats or other protected species, I cannot conclude that the proposed development would not have an adverse effect on GCN. For this reason, it would thus conflict with Policies CP3, CP4 and CP12 of the Core Strategy. These policies, among other provisions, seek to conserve and enhance the area's natural assets, ensure necessary mitigation is provided to address any potential harmful implications of development for environmental assets, support sustainable development which promotes the quality of natural resources and environmental features of acknowledged importance, and seek to prevent harm to the natural environment.

Surface water drainage

29. The Council's fifth reason for refusal raised concerns that the appellant had not demonstrated that the most sustainable form of surface water drainage would not be practical or feasible on this site or provided evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical. This was reflective of representations provided by Yorkshire Water.
30. Policies CP2 and CP3 of the Core Strategy require all new development to be designed to minimise flood risk elsewhere by incorporating Sustainable Drainage Schemes (SuDS), unless SuDS would prove impractical. The Planning Practice Guidance (PPG) advises that preference should be given to multi-functional sustainable drainage systems, and to solutions that allow surface water to be discharged according to the hierarchy of drainage options. Drainage into the ground is the preferred option, followed by drainage to a surface water body.

31. The proposed dwellings would be located on the site of the public house and surrounding parking areas. The extent of impermeable surfaces would not increase significantly. The submitted Drainage Strategy proposes discharging surface water into the local watercourse at Dyson Beck (approximately 73 metres from the site), via an existing private surface water pipe. The scheme would also include pervious paving, diffusers, cellular storage attenuation, and a Hydrobrake. Further infiltration testing is also proposed, with infiltration features to be integrated if feasible, details of which could have been secured by planning condition.
32. Notwithstanding this, SuDS features and the drainage network would need to be maintained regularly. While a SuDS Maintenance Plan has been provided, the mechanism for securing long term maintenance of the drainage system would need to have been explored further, were I minded to allow the appeal.
33. Based on the evidence before me however, the proposed surface water drainage measures would be acceptable, with particular regard to the surface water drainage hierarchy. The proposal would comply with Policies CP2 and CP3 of the Core Strategy. These policies, among other provisions, seek to ensure that all new development is adaptable to climate change, including by incorporating SuDS unless impracticable, and promotes the natural drainage of surface water.

Other Matters

34. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European habitat site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives. Guidance was issued by NE on 16 March 2022 requiring competent authorities to carefully consider the nutrients impacts of any new plans and projects (including new homes) that may give rise to additional nutrients within the catchments of affected habitats sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality.
35. The Council has been identified as an affected Local Planning Authority by NE and the evidence indicates that the appeal site falls within the catchment area for the Teesmouth and Cleveland Coast Special Protection Area (SPA). The Council's third reason for refusal concerned nutrient discharge from the site and the potential effect on the integrity of the SPA. The appellant has submitted a Nutrient Neutral Assessment and Mitigation Strategy, and a Shadow Habitat Regulation Assessment Screening Report & Appropriate Assessment⁹ with their appeal.
36. Notwithstanding this, Regulation 63(1) indicates that an Appropriate Assessment is only necessary where the competent authority is minded to grant consent for the proposal. As I am dismissing the appeal on other grounds, and as this would at best be a neutral factor, it is not necessary for me to consider this matter further.
37. Paragraph 11(d) of the Framework indicates that the presumption in favour of sustainable development is engaged where the policies which are most important for determining the application are deemed out-of-date. This includes, for proposals involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

⁹ Application Reference NE/25/02/1096/002 November 2024 Revision 1

38. In such cases, Paragraph 11(d) states that permission should be granted unless (i) the application of policies in the Framework that protect areas of particular importance (including habitats sites) provide a strong reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
39. The Framework seeks to significantly boost the supply of housing. The evidence indicates that this area of North Yorkshire currently has a housing land supply of just 2.8 years, a significant undersupply. The delivery of new housing must therefore be afforded considerable weight. In addition, the proposal would reuse previously developed land, provide a temporary economic boost during construction and deliver a biodiversity net gain. Given the scale and context of the development however, the social, environmental and economic benefits of the proposal would be relatively modest. While additional residents may contribute to some extent to the vitality and viability of Newsham and neighbouring villages, future occupiers would be encouraged to travel further afield, and by private car, in view of the limited local services and given the site's access to the A66.
40. While the proposal would add to the supply of modest-sized dwellings in particular, there is little information before me of specific housing needs in this area. Additional Council Tax revenue typically supports the delivery of local services for the additional residents, and so would be a neutral factor.
41. On the other hand, the Framework seeks to ensure housing in rural areas is located to enhance or maintain the vitality of rural communities and to avoid the development of isolated homes. It promotes sustainable transport and the active management of growth. It also seeks to ensure development gives priority to pedestrian and cycle movements and access to public transport, and can help to reduce greenhouse gas emissions, including through its location. It requires decisions to avoid significant harm to biodiversity and aims to support priority species. Moreover, the Framework seeks to ensure that developments add to the overall quality of the area, are sympathetic to local character, the built environment and landscape setting, and maintain a strong sense of place.
42. The development plan policies referred to above are consistent with the Framework in this regard. I therefore apportion significant weight to the identified harm and development plan conflict. This harm cumulatively attracts significant weight that would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole. Accordingly, even if I had found that the policies in the Framework that protect habitats sites did not provide a strong reason for refusing the proposal, the presumption in favour of sustainable development would still not apply.
43. Other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.
44. The PPG and Framework encourage local planning authorities to take a positive approach and work proactively with applicants. While the appellant's frustrations

with the level of engagement offered by the Council during the application process is noted, this does not lead me to a different conclusion on the main issues.

Conclusion

45. While I have found that the proposal would provide acceptable surface water drainage measures, a biodiversity net gain, and would not cause harm to bats or other protected species, this does not overcome the harm and development plan conflict arising from the unsuitable location of the development with regard to the Council's spatial strategy, the effect on the character and appearance of the area, and the failure to demonstrate the proposed development would not have an adverse effect on GCN.
46. The proposal therefore conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR