



Appeal Decision

Site visit made on 3 June 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/P2935/W/25/3363166

Land to North and West of Hazelhurst, Scrogg Wood, Bardon Mill NE47 7AA

- 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 Steve Donald on behalf of Nextgen Group Ltd against the decision of Northumberland County Council.
 - The application Ref is 24/03683/FUL.
 - The development proposed is a detached house and car port.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal submission includes additional evidence which was not before the Council at the time of its decision. This includes additional reports and plans in respect of highway, contaminated land and ecology matters. The Procedural Guide states that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
3. I have considered this additional information taking into consideration the principles established by the Courts in *Holborn Studios Ltd*¹. In this case, the additional information provides further evidence in relation to the Council's reasons for refusal, rather than significant amendments to the proposal. For this reason, I consider that there would be no prejudice to any party, and I have therefore determined the appeal on the basis of this additional information.
4. The application had four reasons for refusal. The second reason for refusal relates to highway safety. A Transport Appeal Statement² and updated Visibility Splay Plan, Speed Survey, Adopted Highway Plan and Swept Path and Visibility Analysis has been submitted with the appeal. The Council has reviewed the amended highway information and confirmed that this matter has been satisfactorily addressed. Consequently, the Council has confirmed that they are no longer pursuing this reason for refusal.
5. The fourth reason for refusal relates to contaminated land, and the provision of insufficient information to assess the likely risks arising from the proposed development. A Preliminary Risk Assessment (Phase 1 Desk Study)³ has been submitted with the appeal. The Council has reviewed the additional information

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

² Dated March 2025 prepared by EGG Transport Planning.

³ Dated January 2025, prepared by Spire Geotechnical.

and confirmed that subject to the imposition of suitably worded planning conditions, this matter has been satisfactorily addressed. Consequently, the Council has confirmed that they are no longer pursuing this reason for refusal.

6. In respect of the third reason for refusal, an updated Biodiversity Net Gain Metric and Strategy Document⁴ has also been submitted with the appeal. I will return to this later in my decision.

Main Issues

7. The main issues are:

- Whether the proposed development would make adequate provision for Biodiversity Net Gain; and
- Whether the appeal site is a suitable location for the development proposed having particular regard to the development plan's spatial strategy.

Reasons

8. The appeal site comprises part of a larger parcel of land situated to the north and west of a residential property known as Hazlehurst. There are a number of trees within the appeal site, which are protected by a Tree Preservation Order⁵. The surrounding area is predominantly characterised by a mix of detached and semi-detached properties set with large verdant plots. These are all located to the south of the U7059 and in a broadly linear form.
9. The proposed development would involve the erection of a detached dwelling and car port. It would be accessed from an existing access point and track, which is also used to access a greenhouse and sheds which lie beyond the appeal site.

Biodiversity Net Gain

10. In England, Biodiversity Net Gain (BNG) is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met (the BNG condition). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.
11. The statutory framework involves the discharge of the BNG condition following the grant of planning permission. The determination of the Biodiversity Gain Plan (BGP) under this condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Therefore, development cannot commence until the BGP is approved.
12. On this basis, the Planning Practice Guidance⁶ (the PPG) indicates it would generally be inappropriate to refuse an application on grounds the biodiversity gain objective will not be met. However, the PPG also states that decision makers may

⁴ Dated January 2025, prepared by Ruth Hadden BSc MCIEEM

⁵ TPO Ref: No.09 of 2020 (dated 3rd November 2020)

⁶ Paragraph: 019 Reference ID: 74-019-20240214

need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged.

13. As noted above, the appeal is supported by additional evidence in respect of BNG, which has been reviewed by the Council's Ecologist. The updated BNG Strategy⁷ states that the habitats on site are mainly broad-leaved woodland in a poor condition, with a moderate distinctiveness. This document states that this habitat will be enhanced and will achieve more than the required level of net gain by increasing species diversity, a shrub layer and increasing deadwood, with no wood removed from site. It is stated that this will improve the condition to moderate, thereby achieving BNG of approximately 15%.
14. The Council's Ecologist has raised concerns about the accuracy of the pre-development biodiversity value, which is a mandatory requirement⁸ for planning applications. Although the assessment states that the woodland is in poor condition, very little substantive evidence has been provided in support of this assessment. Furthermore, the on-site baseline provided in the updated BNG Metric differs from that provided in the originally submitted BNG Metric, yet the site area is unchanged. On this basis, I cannot be certain that the pre-development biodiversity value is an accurate figure on which to base an assessment on.
15. Additionally, there are a number of other inconsistencies within the submitted information. For example, the BNG Strategy states that no wood will be removed from site, but this is at odds with the recommendations set out in the Arboricultural Report which recommends a range of works to a number of trees within the site, including removal of branches and deadwood. Furthermore, it is not clear whether the future use of the appeal site a garden for a residential dwelling has been fully accounted for in establishing the loss of any habitat from within the appeal site.
16. Consequently, whilst I acknowledge that the BNG Metric calculations appear to demonstrate that BNG could be achieved through on-site enhancements, insufficient information has been provided to be certain that the BNG calculations accurately reflect the baseline position, the development proposed, or that the BNG Condition is capable of being discharged. Therefore, the evidence submitted does not satisfy me that BNG would be achieved in these circumstances. Thus, it has not been demonstrated that the proposed development would comply with Schedule 7A of the Town and Country Planning Act 1990.
17. The development would also conflict with the Framework, which states that if significant harm to biodiversity cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused.

Whether a Suitable Location

18. Policy STP1 of the Northumberland Local Plan 2016-2036, adopted March 2022 (the NLP) is a strategic policy which sets out a spatial strategy for development within the County. The policy seeks to direct the majority of development to the larger settlements to support services and facilities, these include Main Towns, Service Centres, Service Villages or Small Villages.

⁷ Prepared by Ruth Hadden BSc MCIEEM, dated Summer 2024

⁸ Paragraph: 011 Reference ID: 74-011-20240214

19. The nearby settlements of Bardon Mill, Henshaw and Redburn are together identified as a Service Village. It is not disputed that the appeal site lies beyond the identified settlement boundary of these villages.
20. However, Policy STP1(f) of the NLP also supports some limited development in other locations. It states that development in Other Settlements not identified as Main Towns, Service Centres, Service Villages or Small Villages will be limited to that within the built form of the settlement, and the conversion, extension or redevelopment of existing buildings unless it supports the sustainable growth of an existing business or the formation of a new business or provides for new or enhanced community facilities.
21. The NLP defines a Small Village as a cluster of dwellings and associated buildings which have a recognised name and identity, a church or other community building. A list of settlements which have been identified as meeting these criteria are included in Appendix A of the NLP. However, the NLP does not define what is meant by an Other Settlement, nor does it provide a list of settlements which have been identified as falling into this category. Therefore, in the absence of a definition or identification criteria it is a matter of planning judgment as to whether Scrogg Wood is or is not an Other Settlement. I have therefore had regard to the ordinary meaning of a settlement which is as *“a place where people come to live, or the process of settling in such a place”*.
22. It is not disputed that the settlement referred to as Scrogg Wood consists of approximately 22 dwellings arranged in a predominantly linear form to the southern side of the road. However, the Council's position is that these form a group of dwellings within the open countryside, but not an Other Settlement. However, based on my observations at the site visit, they clearly form a coherent group of dwellings which have an appearance of a small settlement. Although not expressly relevant to the consideration as to whether Scrogg Wood is an Other Settlement, the definition of a Small Village states that it is a cluster of dwellings. In this particular case, the appeal site sits within a cluster of dwellings. Therefore, having regard to the ordinary meaning, I find that Scrogg Wood is a settlement.
23. I accept that there are no physical features which indicate that Scrogg Wood is a named settlement such as signage. However, the absence of any such signage is not necessarily a determinative factor. The Council accepts that the cluster of houses is known locally as Scrogg Wood, and some, but not all properties include this within their postal address. There is a street sign for Scrogg Wood. However, this appears to relate to a short row of approximately nine dwellings rather than being indicative of the name of a settlement. Nonetheless, the absence of signage or other indication of a place name is not a determinative factor in itself, but merely one relevant consideration. Furthermore, in the absence of any specific criteria by which to determine whether or not a place is an Other Settlement, the absence of a sign does not mean that it is not a settlement.
24. The appellant has referred to the proximity of the site to Bardon Mill, which is located on the opposite side of the A69. They have highlighted a bus stop within 300 metres, a train station within 500m and a village shop and public house within 600 metres of the appeal site. It is not disputed that these lie outside of Scrogg Wood and that there is no public footpath providing a link to Bardon Mill. However,

the supporting text⁹ to Policy STP1 of the NLP recognises that Northumberland has many Small Villages and Hamlets and although development is not directed to these settlements, it recognises that development is required in rural areas to support social and economic vitality. The National Planning Policy Framework (the Framework) also recognises that where there are groups of smaller settlements development in one may support services in another.

25. Given the proximity of the appeal site to an identified Service Village, I find that whilst there may be some increased reliance on private modes of transport, this does not result in conflict with Policy STP1 which supports some limited development outside of settlements with recognised services and facilities.
26. Consequently, in the absence of a definition or criteria-based approach and based on the evidence before me, I find that Scrogg Wood is an Other Settlement for the purposes of Policy STP1(f). Furthermore, I find that the appeal site is located within the built form of the settlement.
27. The supporting text to the NLP states that the open countryside is defined as land beyond settlement boundaries or Green Belt inset boundaries, where they are defined on the Local Plan policies map or neighbourhood plan policies maps, or land not within, or immediately adjacent to the built up form of Main Towns, Service Centres, Service Villages or Small Villages and land that is not within the built form of Other Settlements, where boundaries are not defined.
28. As I have found that the appeal site is located within an Other Settlement, criteria (g) and (i) of Policy STP1, which relate to development within the open countryside, are not relevant to the development proposed. Furthermore, the development proposed would not provide for isolated dwellings in the countryside and so also it follows that policy HOU8 of the NLP is irrelevant in this case and that there would be no conflict with its content.
29. For the reasons set out above, I therefore conclude that the proposed development is a suitable location for the development proposed having particular regard to the development plan's spatial strategy. Thus, it would comply with Policies STP1 and HOU2 of the Northumberland Local Plan. Together these policies, support limited development within the built form of an Other Settlement, and the provision of new housing with a mix of housing types, sizes and tenures.

Other Matters

30. I have found no reason to disagree with the Council's assessment in relation to the effect of the proposal on the character and appearance of the area, the living conditions of neighbouring properties, connectivity and drainage. However, the absence of harm on these matters does not alter my above findings.

Conclusion

31. For the above reasons, although I have found that the proposed development would be in a suitable location having regard the development plan's spatial strategy, it has not been demonstrated that the proposed development would comply with Schedule 7A of the Town and Country Planning Act 1990.

⁹ Paragraph 4.38

32. Therefore, the development does not accord with the development plan as a whole and there are no material considerations of sufficient weight, including the Framework, which indicate that I should take a different decision other than in accordance with it and I conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR