



Appeal Decision

Site visit made on 24 June 2025

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2025

Appeal Ref: APP/X1355/W/25/3363869

Land North of Bamburgh Road, Ferryhill

Grid Reference Easting: 429678, Grid Reference Northing: 533265

- 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 Karelyn Properties Limited against the decision of Durham County Council.
 - The application Ref is DM/24/01580/FPA.
 - The development proposed is the erection of a new self-build dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The proposal is for a self-build dwelling which would be exempt from providing Biodiversity Net Gain (BNG) if it is constructed in the context of the Self-Build and Custom Housebuilding Act 2015 (as amended) (SBCHA). With this in mind, the main issues are:
 - the effect of the proposal on highway safety, with regard to visibility splays; and
 - whether the requirements of BNG are relevant to the proposal and, if so, whether such requirements are met.

Reasons

Highway safety

3. The proposal would result in a new vehicular access onto a 60 miles per hour unlit road where there is a general absence of direct access. An exception to this is adjacent to the appeal site providing access to the dwelling known as Reservoir Cottage, and further north of the site there is an access for Northumbrian Water. It is not disputed that the Design Manual for Roads and Bridges (DMRB) standards are applicable, which require visibility splays of 2.4 metres (m) x 215m. As shown on the proposed visibility splay plan this would not be achieved at the appeal site.
4. The northern visibility splay would be considerably short of the required standard at approximately 80m owing to the vertical alignment of the road, and the visibility to the south would also be short of the standard at 116m. Moreover, the appellant could not ensure clear visibility along the proposed splays owing to the intervening vegetation largely being on land outside of their control. As such this is not a matter that can be overcome through the imposition of a planning condition as it would not meet the tests at Paragraph 57 of the National Planning Policy Framework (the Framework).

5. Even if the nearby recorded incident was related to a medical matter, and there have been no other road traffic accidents, this does not indicate that the proposal would be inherently safe. Despite the site's rural location there is no substantive evidence to demonstrate that the visibility shown on the plans would be sufficient to ensure safe access. As such, I have no clear reason to find that the proposed departure from the DRMB standards would be appropriate in the circumstances of the appeal site.
6. It has not been shown that the significantly reduced visibility splays would not result in the potential for conflict or that it would be safe for vehicles to exit the site. The proposal would therefore have an unacceptable impact on highway safety and would not meet the provisions of Framework Paragraph 115. The proposal has been designed to enable vehicles to enter and leave the site in a forward gear. However, this does not lead me away from my findings on this matter as the DRMB standards assume that a vehicle is travelling in a forward direction.
7. Although there is an existing direct access adjacent to the appeal site, this was permitted under a different local and national policies. Furthermore, the Northumbrian Water access further north from the appeal site is not proximate to a crest in the road and so is not directly comparable to the appeal site's context. In any event, I have reached my own view based on the evidence before me.
8. To conclude, the proposal would be unduly harmful to highway safety, with regard to visibility splays. It would be in conflict with Policies 6 and 21 of the County Durham Plan (2022) (CDP) insofar as they require development to not be prejudicial to highway safety and the transport implications to be addressed.

BNG

9. For the proposal to qualify for an exemption from mandatory BNG, it is necessary to secure the development as a self-build. While specified in the description of development, this alone is unlikely to be sufficient to ensure that the proposed dwelling is constructed as such. A condition requiring occupation of the dwelling by the person who built it would be unlikely to pass the tests within Framework paragraph 57. Despite a willingness from the appellant to explore a section 106 agreement there is no such mechanism before me to secure this type of housing.
10. The appeal proposal is not in outline, and the scheme includes a detailed design for consideration. The appellant suggests that because they intend to sell on the land to an individual who will then design, build and live in the dwelling a more flexible approach is required. Nevertheless, their hypothetical scenario whereby this would result in a pathway to securing self-build through the eventual owner applying to vary the permission to ensure they had an input into the design is flawed. Not least because there is no control mechanism to require that an application to vary the design is submitted. As there is little certainty that such an application would be forthcoming, it therefore follows that I cannot be sure that the dwelling would be constructed as self-build housing in line with the SBCHA.
11. Taking the above into account, the proposal would not be secured as self-build, it would not therefore be exempt from mandatory BNG, and it is necessary to demonstrate that the development would deliver a BNG of at least 10%¹. Furthermore, CDP Policy 41 includes a requirement that proposals minimise

¹ Schedule 7A of the TCPA (as inserted by Schedule 14 of the Environment Act 2021).

impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and provide net gains for biodiversity. No minimum percentage is specified, but the policy is clear that a net gain should be achieved.

12. The appellant is said to be committed to ensuring that all ecological considerations are addressed and has submitted a BNG matrix and an updated Preliminary Ecological Appraisal (2403 DR Version 2) (PEA) that concludes that the proposal would exceed the 10% BNG requirement. The pre-development biodiversity value of a site is a critical step in establishing whether BNG would be delivered. The photographs in the PEA appear to show that the site had recently been cleared at the time the walk over of the site was conducted in May 2024. On this basis, the majority of the site was categorised as unvegetated land in the BNG metric with a very low distinctiveness. However, as evidenced in the Council's submissions, prior to the site being stripped of vegetation, it accommodated trees and shrubs.
13. Even if the appeal site did not contain any protected trees and the site clearance was not unlawful, in my mind this creates uncertainties about whether the current quality of the site is the correct basis for the BNG calculation, as this ignores the impact of the site clearance which is likely to have affected the quality of the habitat. In coming to this conclusion, I have taken account of my site visit observations that vegetation at the site has grown considerably in comparison to the extensive bare earth shown in the photographs in the PEA from May 2024.
14. The statutory framework for BNG has largely been designed as a post-permission matter. However, from the evidence before me it is not clear that an adequate baseline has been secured to establish the pre-development onsite habitat in the BNG calculation, and the 10% increase in biodiversity value must be relative to the pre-development biodiversity value. Given the uncertainties around the baseline, this is not a matter that can be resolved through the standard biodiversity gain condition as there is no indication that it is capable of being successfully discharged. In addition to ambiguity in relation to whether the biodiversity gain objectives would be achievable, it is also not obvious whether the scheme would deliver a net gain in biodiversity as required by the development plan.
15. To conclude on this main issue, the current baseline biodiversity value of the site is not clear, as such I have taken a precautionary approach. The requirements of BNG are relevant to the proposal and it has not been demonstrated that they could be met, nor has it been determined that a net gain in biodiversity would be delivered. The proposal would therefore be in conflict with CDP Policy 41.

Other Matters

16. The appeal site lies within the impact risk zone of the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar Site (the European site) afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat. Notwithstanding the appellants' agreement to make a financial contribution to mitigate the effects of the proposal on the SPA, as the scheme is unacceptable for other reasons, it is not necessary for me to consider the implications of the proposal upon the European site.
17. The level of offsite contributions to secure open space provision is disputed. However, there is no section 106 agreement before me, as such it is not

necessary to reach a finding on this matter as it would not affect my overall conclusions. While the appellant has expressed frustrations with the Council's handling of the application, this does not alter or outweigh my findings which are based on the planning merits of the case.

Conclusion

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal would be harmful to highway safety, in conflict with CDP Policies 6 and 21 and it has not been possible to ascertain from the information submitted that a net gain in biodiversity would be delivered, in conflict with CDP Policy 41. There is no substantive evidence to indicate that these policies are out of date, I therefore give significant weight to the appeal scheme's conflict with the development plan read as a whole. I will now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.
19. The requirement to demonstrate a deliverable 5-year supply of housing is a minimum not a maximum and there is considerable support for boosting the supply of homes and the efficient use of land. The proposal would deliver one dwelling in an accessible location. Given the scale of the proposal, these benefits attract limited positive weight. There are also likely to be modest, time-limited economic benefits from the construction stage and some limited economic benefits arising from council tax income and expenditure by future occupiers. Albeit there is limited guarantee of the extent to which these economic benefits would be directed to local businesses or services.
20. The proposal is for a self-build dwelling. The Council encourages the delivery of self-build housing, and Framework Paragraph 73 b) supports small sites to come forward for community led self-build housing. Nevertheless, there is no evidence about the supply of, and demand for, suitable sites for this type of housing. Furthermore, there is no mechanism to secure the type of housing proposed. Consequently, this matter attracts very limited positive weight.
21. The proposal would incorporate sustainable design and construction however there is no clear evidence that this would go beyond what is already required by building regulations. As such this, and any other policy compliance are neutral factors, weighing neither for nor against the scheme.
22. The proposal would result in benefits, but it would also cause harm. Weighing the two up is a matter of planning judgement. In this case, the benefits of the proposal are insufficient to outweigh the identified conflict with the development plan. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR