
Appeal Decision

Site visit made on 21st March 2015

by Jonathan G King BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 April 2016

Appeal Ref: APP/G0908/W/15/3141098

Land off Dovers Lane. Papcastle.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Thomas Armstrong (Construction) Limited against the decision of Allerdale Borough Council.
 - The application Ref 2/2015/0622, dated 7th October 2015, was refused by notice dated 4th December 2015.
 - The development proposed is the erection of up to 10 dwellings and associated access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - (a) *whether the proposed development is consistent with the policies of the Allerdale Local Plan (Part 1) with respect to its location, scale and impact, having particular regard to Papcastle's position in the settlement hierarchy and its sustainability; and*
 - (b) *whether the proposed provision of affordable housing is appropriate.*

Procedural matters and clarification

3. The application is in outline with all matters reserved other than access.
4. The application was accompanied by an extensive suite of supporting information, including a Planning Supporting Statement and a Design and Access Statement.
5. I have been informed by some representors that the name "Dovers Lane" should not be applied to the road fronting the site which is identified in the application. Others, including the Council, have been content to use it. As the site is clearly shown on the plans, and there is no doubt which road is being referred to, I have continued to use that name in my decision.

Reasons

Planning policy

6. Policy S3 *Spatial Strategy and Growth* of the adopted Allerdale Local Plan (Part 1)(LP) sets out the proposed overall number of dwellings to be provided in the

District within the Plan period (2011-2029). It indicates that new development will be located in accordance with the spatial strategy and that the scale will be expected to be commensurate to the size of the settlement and reflect its position in the settlement hierarchy. That hierarchy spans Principal Centres, Key Service Centres, Local Service Centres, and Rural Villages, with the latter subdivided into Limited Growth Villages and Infill / Rounding Off-Villages. Each shares a proportion of growth, with Rural Villages being allocated 6% of the total, or some 328 housing units.

7. Rural Villages are described as settlements where a limited amount of development will be supported in order to help retain the vitality of the communities. Papcastle falls within the category of *Infill / Rounding Off Villages*, one of 22. In such settlements, very small-scale development may be appropriate to respond to local needs and to contribute to the vitality of rural communities. For this level of the hierarchy, settlement limits will be removed and developers will be directed by criteria in Policy S5 *Development Principles*.
8. Policy S8 sets out the circumstances for securing affordable housing through open market development.

Issue (a) - Location, scale and impact

9. The indicative plan shows 10 detached dwellings. The Local Plan does not provide guidance on the number of dwellings considered to comprise the "very small scale development" envisaged in Infill/Rounding Off Villages. But Policy S5 says that in such settlements it should be of a scale that is sympathetic to its role, and respect its appearance and physical capacity. It is clear to me that "very small scale" must mean very limited indeed, especially bearing in mind the position of Infill/Rounding Off Villages at the very bottom of the settlement hierarchy. The appellant has calculated that 10 dwellings would represent a 5.7% increase in the number of housing units in the village, and compares this to the 6% of the total number of dwellings for the District which the Local Plan seeks to provide in Rural Villages during the Plan period. I consider this a simplistic approach. The Plan does not say that a 6% increase would be appropriate in every Rural Village or that a single development amounting to 6% would in every case be acceptable. It is no more than a figure to be applied globally to all 43 settlements; and there is no imperative for every settlement to achieve that level of increase. Some may be suitable for more, and others less, having regard to the criteria in Policy S5. In my judgment, whether 10 dwellings should be regarded as "very small scale" will depend on the individual context of the development posed.
10. Neither of the terms *infilling* nor *rounding off* are defined in the Local Plan. That notwithstanding, I am satisfied that the development cannot be regarded as falling within the first of these, in that it does not fill in an otherwise largely confined space. As for "rounding off", I do not consider it appropriate to import a definition employed by another authority, as the appellants urge me to do. The definition which has been brought to my attention (taken from the Ribble Valley Core Strategy) explicitly applies to land within the settlement boundary, whereas the appeal site is neither within the designated boundary of Papcastle, nor does that designation apply to Infill/ Rounding Off Villages in Allerdale.
11. The southern boundary of the site adjoins the rear of housing taking access from The Mount, but its other boundaries are not shared with development. To the north and east it abuts wholly undeveloped land, while on the remaining

side it fronts Dovers Lane, though it is fair to say that it does not extend further along that road than the existing houses on its other side. That notwithstanding, I take the view that what is proposed should not properly be described as rounding off. Rather I regard it as an extension to the village into open land.

12. In reaching this conclusion I have taken account of the local topography, together with the shape and character of the surroundings. Dovers Lane rises fairly steeply out of the centre of the village towards the site. To its east, the edge of the settlement is marked by the dwellings in The Mount, a residential street of suburban appearance which falls away eastwards. At the junction with Dovers Lane, the lower side is undeveloped, while on the upper side the first 2 dwellings are bungalows. Taken together, these features significantly limit the visual impact of The Mount when viewed along Dovers Lane from both directions.
13. On the western side of Dovers Lane, the large house *Braehead* stands in extensive grounds roughly level with The Mount. It has a prominent hedge along its frontage, which, together with several trees, provide substantial screening to the property and a visual break between the concentration of development to the south and the last 4 houses of the village beyond. There is no development behind those houses, which form a short run of frontage development. They are not completely separated from the village, as is the small concentration of buildings at Belle Vue further along the lane but, having regard to the otherwise largely nucleated form of the village and the visual separation provided by *Braehead*, they appear as a small linear extension. To my mind they do not provide a proper basis for extending development on the other side of the road into the otherwise undisturbed countryside.
14. Moreover, the appeal site rises northwards from The Mount, with its northern boundary joining Dovers Lane approximately at its highest point. In contrast to The Mount, the proposed development would be visually very prominent. Its impact on the appearance of this entrance to the village would be significant. To my mind, it would have a suburbanising influence and be harmful to its character and appearance.
15. Policy S5 includes a number of criteria of acceptability for all development but also includes others of particular relevance to development within or adjacent to Infill / Rounding Off Villages. With respect to those, I acknowledge that the development would not result in the loss of any important green infrastructure or other features that provide a valuable amenity in the formal sense. But it would occupy undeveloped land at the entrance to the village that not only provides part of its rural setting but also permits long-distance views over the surrounding countryside. It would not extend ribbon or sporadic development, nor would it cause Papcastle to join with another settlement, though there would certainly be the perception of the gap between the village and Belle Vue being diminished. Moreover, it would not be within or well-related to the form of the settlement. It would fail to protect, maintain or enhance any aspect of local distinctiveness, the character of the village or its setting. Rather, as described above, it would cause harm to those matters.
16. Returning to the question as to whether the development should be regarded as "very small scale", I consider that its impact would be out of proportion with

its moderate size. On that basis, I consider it not to be very small scale in context.

17. The third reason for refusal says that the proposed development does not qualify as an exception for housing outside the defined settlement by reference to Policy S3. I assume that this refers to the 10 listed circumstances in which proposals outside defined settlements will be limited. This expression may be confusing because Infill / Rounding off Villages are explicitly not subject to settlement limits. But it is clear from the supporting text that it refers to the open countryside and villages or hamlets not listed in Policy S3. I am satisfied that this provision does not apply to the appeal site and is therefore not relevant to my consideration.
18. I conclude that the proposed development should not be regarded as "rounding off", and that it would be inconsistent with Local Plan Policies S3 and S5 so far as location and scale is concerned.
19. I consider the matter of sustainability separately later in this decision.

Issue (b) - Affordable housing

20. Under LP Policy S8, the Council seeks to maximise the delivery of affordable housing across the Plan Area; and will seek a proportion of affordable homes from residential development in perpetuity. Outside Key Service Centres, housing development of 5 dwellings or 0.15ha or more will be required to make provision for 25% affordable housing, with the Council normally seeking a tenure split of 75% social rented and 25% intermediate affordable units, but will take into consideration the identified need and site specifics, including viability.
21. Policy S3 indicates that in Infilling / Rounding Off Villages this may be appropriate to respond to local needs. The Council's Housing Department has indicated that the findings from the latest housing needs survey suggests that there is a strong demand for social housing in Papcastle and 3 adjoining parishes for most property types and sizes. However, the supporting text to Policy S8 says that on sites (such as the appeal site) where the proportion and tenure split results in the delivery of a small number of affordable dwellings, it may be necessary to determine the tenure based on local evidence such as parish-based housing market assessments.
22. The Design and Access Statement submitted with the application indicates that 3 units of affordable housing, representing 30% of the total, would be provided. I understand from the Council that the appellants proposed that this be in the form of 100% intermediate tenure (low cost sale), justified by the location and small-scale nature of the site and the difficulties in the management of social rented properties. The appellants' appeal submissions include the Heads of Terms of a Section 106 Agreement which indicates a willingness to provide 3 affordable units, but there is no indication of the type or tenure.
23. The fourth reason for refusal states that in the Council's view insufficient evidence has been provided to justify 100% intermediate tenure contrary to Policy S8. The appellants state that, had they had the opportunity, they would have been open to discussions with the Council on the matter. I make no observations on their assertion that the Council failed to act pro-actively. That

is not material to my decision. That notwithstanding, the appellants have not produced any evidence as part of the application or their appeal submissions, for example a parish-based needs assessment, to justify departing from the expectations of Policy S8.

24. It is important that, where small number of affordable units are being provided as part of developments in small settlements, the tenure should properly reflect the need. And that is what the policy seeks. To do otherwise would be to risk losing the benefit of the limited opportunities for provision. I therefore sympathise with the Council's position. Notwithstanding the Heads of Terms, neither an agreement under S.106 nor a unilateral undertaking has been submitted to ensure the appropriate provision of affordable housing. Planning permission cannot lawfully be granted subject to an agreement being reached in the future. However, it would be possible to impose a condition on a permission preventing development until such time as arrangements had been made to make appropriate provision. Were I minded to allow the appeal, I would impose such a condition.

Sustainability

25. The appellants argue that Papcastle must be a sustainable location, otherwise it would not have been identified as an Infill / Rounding Off Village in the Local Plan. There may be some strength to that argument, though I have not had access to the evidence submitted to the LP examination. I have considered the 3 strands of sustainability: economic, social and environmental by reference to the matters identified by the appellants.
26. Economically, the development would doubtless provide some temporary employment, and longer term benefit in terms of the New Homes Bonus and Council Tax contributions. But that could apply to any new housing, irrespective of its location and does not suggest that this development is particularly sustainable. The assertion that it would act to retain families and young professionals in the Cockermouth area with consequent economic and skills benefits is not supported by any evidence. Similarly, I have no reason to believe that Papcastle's community is lacking in vitality such that the development would thereby be justified.
27. In social terms, I acknowledge that the provision of affordable would be a clear benefit to the village. But without details of the existing or proposed housing mix or I cannot tell whether the development would provide a wider choice of homes.
28. Environmentally, the site is reasonably close to a bus stop, which allows moderate access to Cockermouth and its facilities without recourse to the use of a car; and the public house at Belle Vue is within walking distance. But Papcastle has few other facilities. The fact that residents will have to travel to Cockermouth and elsewhere to access nearly all facilities suggests that it is not an especially sustainable location, notwithstanding its identification for limited development in the Local Plan. The fact that the development would not be likely to cause environmental harm is of course welcomed.
29. Papcastle has been identified as being suitable for new housing, albeit at a very small scale, and may at best be described as only marginally sustainable as a location. But even if it were regarded as sustainable, that is not to say that every proposed development in it would necessarily be sustainable or

contribute to its sustainability. In my view, the proposed development would contribute little to the sustainability of the locality, other than by the provision of some social housing.

Other matters

30. I have regard to the representations I have received from the Parish Council and a number of local residents both in relation to this appeal and to the original planning application. Several raise matters I have not identified as main issues, such as traffic, highway safety, drainage, archaeology, nature conservation and residential amenity. These were addressed by the Council at the application stage and largely deemed either to be capable of resolution through the imposition of conditions or insufficient to warrant withholding permission. I do not disagree. Some related to detailed matters that would be more appropriately addressed at reserved matters stage, should the development be permitted. I have concentrated principally on the matters identified in the reasons for refusal.

Overall conclusions and the balancing exercise

31. The National Planning Policy Framework (NPPF) repeats (in paragraph 12) the statutory position that the development plan is the starting point for decision-making. Proposed development that accords with an up-to-date local plan should be approved; and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Paragraph 14 contains a presumption in favour of sustainable development, which for decision-taking means approving development proposals that accord with the development plan without delay. Paragraph 49 adds that housing applications should be considered in the context of that presumption. Where the development plan is absent, silent or out-of-date, this means granting permission unless 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. This approach is broadly repeated in Policy S1 of the local plan.
32. I have been given no reason to conclude that the development plan is absent or silent. It was adopted in July 2014, after the publication of the NPPF and I regard it as being up to date. I have concluded that the development would conflict with it. Under the provisions of the NPPF, the presumption is that the appeal should be refused, subject to considering the question of sustainability and a balancing exercise being carried out.
33. The provision of suitable affordable homes, even though small in number, is a material consideration. It would be a benefit to the village and would further the aims of the local plan and the NPPF. It weighs in favour of the development. However, when balanced against the clear conflict with the development plan, in my judgment it is insufficient to justify a development in an unsuitable location. I conclude overall that the proposed development would be unacceptable for the reasons given above.

Jonathan G King

Inspector