The Planning Inspectorate

Appeal Decision

Site visit made on 19 April 2016

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 10 May 2016

Appeal Ref: APP/P2935/W/15/3136954
Land to the East of 33 Station Road, Stannington, Northumberland NE61 6DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Mrs N Miller against Northumberland County Council.
- The application Ref: 15/01814/OUT is dated 22 May 2015.
- The development proposed is the redevelopment of land to the east of 33 Station Road for up to 20 residential units.

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The application was submitted in outline, with only access to be determined at this stage. This is the basis upon which this appeal has been determined.

3. For reasons of clarity and brevity, I have shortened the description of development to remove unnecessary wording for the purposes of this appeal.

4. The Council has an emerging plan that is at an early stage and is yet to be examined in public. As its policies have not been tested it carries limited weight and this appeal will consequently be determined in accordance with the Castle Morpeth District Local Plan 1991-2006 2003 (LP), the Northumberland County and National Park Joint Structure Plan 2005 (JSP) and the National Planning Policy Framework 2012 (the Framework). Given the main issues of this appeal I consider the most relevant policies to be C1, MC1 and H16 of the LP and policy S5 of the JSP.

Main Issues

5. The Council failed to give notice within the statutory time period but has set out its putative reasons for refusal in its statement of case. Bearing this in mind as well as the fact that the appeal site is within the Green Belt the main issues are:

   - whether the proposal is inappropriate development for the purposes of the Framework;

   - the effect of the proposal on the openness of the Green Belt;

- whether the use of an open countryside location is justified; and
- if the proposal is inappropriate development, whether the harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

6. The appeal site is situated on the northern side of Station Road which is characterised by sporadic ribbon development in the open countryside. The site is immediately to the east of a residential property, Holly House. The proposal comprises a development of up to 20 no. dwellings which have been indicated on illustrative plans.

Whether inappropriate

7. Paragraphs 89-90 of the Framework set out those categories of development which may be regarded as not inappropriate, subject to certain conditions. One of the exceptions is the redevelopment of previously developed land provided that the proposed development does not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

8. The appellant is of the opinion that the site has been in commercial use in excess of 25 years and as such constitutes previously developed land. Both parties accept that the nature of this use varies with the western half of the site being associated with a used car business and the eastern half of the site being associated with a tenanted, mixed use. The appellant nevertheless maintains that the entire site has an established B8 Use Class and has drawn my attention to a lack of any enforcement action in relation to this matter. The lawfulness of this use has not, however, been established through a certificate of lawfulness and is also contested by local residents.

9. Whether or not the existing use is lawful is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (the Act). It is open to the appellant to apply to have the matter determined under section 191 of the Act and I note that such an application has been made. This application will be unaffected by my determination of this appeal. Consequently, the extent to which the site can be considered previously developed land turns on how this type of land is defined in Annex 2 of the Framework.

10. This defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The definition excludes, amongst other things, land that is or has been occupied by agricultural buildings, land in built-up areas, such as private residential gardens, and land that was previously developed but where the remains of the permanent or fixed surface structures have blended into the landscape in the process of time.

11. I observed from my site visit that the permanent structures associated with the eastern half of the appeal site have overtly agricultural origins. A number of temporary structures are also present comprising shipping containers, chicken coops and a portacabin. Whilst some compacted aggregate surfaces are present these are also temporary and cannot therefore be considered fixed

surface infrastructure. Consequently, this part of the appeal site is clearly excluded from the established definition of previously developed land.

12. I now turn to the western half of the site and note that the Council accepted that it had an established use and that, by implication, it constitutes previously developed land. However, I find this conclusion equivocal given the presence of a disused greenhouse. As an agricultural building this structure and its curtilage is excluded from the Annex 2 definition. This is because horticulture is included within the definition of agriculture, as outlined in section 336 of the Act. Notwithstanding the greenhouse and its curtilage, I accept that the workshop, smaller block work building, existing access and car storage area fall within the definition and would therefore constitute previously developed land under Annex 2. However, as the proposed development would extend beyond these areas the scheme, as a whole, cannot be considered an exception.

13. As the scheme would not conform to any of the specified exceptions, I can find no support for the proposal in paragraph 89 of the Framework. Bearing in mind that it is not one of the other forms of development specified in paragraph 90, I therefore find that the proposal would amount to inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances.

Openness

14. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. It follows that openness is defined by an absence of buildings or other forms of development. Paragraph 80 goes on to set out a number of purposes that the Green Belt serves, one of which is to safeguard the countryside from encroachment. The construction of up to 20 dwellings and associated infrastructure on what is currently a relatively open site would materially harm openness and lead to encroachment.

15. The Framework advises that substantial weight should be attached to any harm to the Green Belt. I have attached such weight in this instance because of the harm that would be caused to the Green Belt by reason of the inappropriateness of the proposal, the loss of openness and the encroachment into the open countryside.

Location

16. The appellant has accepted that the appeal site lies outside any defined settlement limit and has not disputed the Council's statement that a deliverable 5 year housing land supply can now be demonstrated for the Central Delivery Area despite suggesting that there may be an under-delivery of housing sites in the future. However, the relevance of the development plan has been disputed on the basis that it is out-of-date and that its locational policies do not therefore apply. The appellant also contends that the proposal is supported by paragraph 55 of the Framework because it would constitute sustainable rural development.

17. Planning law[1] requires that applications for planning permission must be determined in accordance with the development plan, unless material

[1] Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

considerations indicate otherwise. Paragraph 215 of the Framework advises that the development plan should not be considered out-of-date simply because it was adopted prior to the publication of the Framework. Due weight should be given to its policies according to their degree of consistency with the Framework. I find the thrust of saved policies C1, MC1 and H16 of the LP to be broadly consistent with the Framework, insofar as they seek to avoid inappropriate development in the open countryside. Consequently, they are relevant to the determination of this appeal and therefore carry due weight.

18. The appellant has also suggested that the proposal would represent infill development within the 'built-up area of Stannington Station'. I observed from my site visit that whilst there is scattered development along Station Road, the separation distances are such that the dominant character is rural with agricultural land enveloping the developed land parcels beyond their intermittent frontages. Furthermore, I note that the appeal site is not within a settlement boundary, as defined by the development plan. Consequently, the proposal would lead to isolated homes in the countryside from both an aesthetic and policy perspective.

19. The appellant is of the opinion that a precedent has been set by the way in which the Council have considered other planning applications in the local area. These comprise proposals for 7 dwellings on land to the east of No. 26 Station Road (Ref: 13/03785/OUT) and 77 dwellings at Netherton Park to the north east of Stannington (Ref: 14/00808/OUT). However, the case officer's reports that I have before me suggest that they are not similar in all respects. This is because the Council had not demonstrated a deliverable 5 year housing land supply at the time the reports were written and both sites were considered to be previously developed land, one in its entirety and the other across the majority of the site. Furthermore, the proposal on land to the east of No. 26 was deemed to not have a greater impact on openness, unlike the current proposal.

20. The appellant has also drawn my attention to recently approved developments for 27 dwellings at No. 58 Station Road (Ref: 15/01760/OUT) and 35 dwellings at Clifton Caravan Centre (Ref: 14/02140/FUL). However, I do not have the full facts before me and cannot therefore determine whether they are similar in all respects to the current proposal. Consequently, this evidence only carries limited weight in the balance of this appeal despite the submission of some partial extracts.

21. Given the above, I conclude that the use of an open countryside location is not justified and that the proposal would therefore be contrary to saved policies C1, MC1 and H16 of the LP that seek to maintain the rural character of the countryside and direct development towards built-up areas. This would not be in accordance with the development plan. As there are no special circumstances that would make the development acceptable, I also find it would be contrary to paragraph 55 of the Framework and lead to isolated homes in the countryside.

Other considerations

22. The appellant has drawn my attention to the fact that the proposal would boost the supply of housing. I accept that a limited contribution would occur and that in this respect some support would be gained from the Framework. However, the Planning Practice Guidance 2014 (as amended) advises that unmet housing

need is unlikely to outweigh harm to the Green Belt and any other harm to justify inappropriate development. Whilst the appellant has argued that the lead-in times for sites that have already been granted permission could result in under-delivery, this speculative assumption is not supported by any substantiated, site-specific evidence. Bearing this in mind, as well as the limited number of dwellings, I give this matter limited weight in favour of the development.

23. The appellant has suggested that the development would constitute sustainable development in a rural area because it would help to maintain and enhance the vitality of the surrounding rural communities and services. However, the proposal is only for a limited number of dwellings and I have no substantiated evidence before me to suggest that local services require additional support to ensure their continued viability. Bearing in mind the rural location and the infrequent hourly bus service, future occupants would clearly be reliant on the use of private motor vehicles for commuting purposes. Despite the presence of alternative modes of transport, I am not satisfied that these would be used to a significant extent or that the use of more remote services, close to centres of employment, would be precluded. Furthermore, the potential use of footways and cycle paths to access the limited range of services in the immediate area would be limited to able-bodied persons. Consequently, I give this matter little weight in favour of the development.

24. The appellant has drawn my attention to the case history and the comments that individual officers have made in relation to the proposed development. I accept that some of these imply support for the proposal. However, as no final decision was reached, these simply represent an informal, ongoing dialogue rather than a determinative view. In any event, the Council would have been entitled to reach a decision on the basis of all the available evidence and would not have been bound by any such discussions. Consequently, I give this matter no weight in favour of the development.

25. The Council's statement of case indicates that one of the putative reasons for refusal is the lack of a planning obligation that would secure an off-site contribution to affordable housing. The appellant accepts that one is necessary but no such undertaking or agreement has been offered. Consequently, I give this matter no weight in favour of the development. As I am dismissing the appeal for other reasons, this matter has also not had any significant bearing on my overall decision.

26. I observed that the proposed access onto Station Road would allow the cars of future occupants to enter and leave to site in a safe manner. This is because of the uncluttered, long-distance views in both directions and the fact that the depth of the walkway and verge is such that emerging vehicles would be clearly visible to oncoming traffic. Although the proposal would not cause significant harm to highway safety this is a neutral consideration as there would be no change to existing conditions. Consequently, I give this matter no weight in favour of the development.

Overall balance

27. The Framework states that inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Substantial weight must be given

to the harm to the Green Belt due to the inappropriate nature of the proposal, the harm that it would cause to openness and its encroachment into the countryside. On the other hand limited weight in favour of the development would arise from the contribution that it would make to the local housing supply. However, on balance, I consider that the factors in favour of the proposal do not clearly outweigh the harm that would be caused to the Green Belt.

Conclusion

28. Having considered all the matters in support of the proposal, I conclude that, collectively, they do not clearly outweigh the totality of harm and consequently very special circumstances do not exist to justify the development. Accordingly, the proposal would be inconsistent with the advice in the Framework. Additionally, the proposal would also conflict with policy S5 of the JSP that seeks to protect the Green Belt. For the above reasons and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR