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## Appeal Decision

Hearing held on 5 April 2016

Site visit made on 5 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: 06 May 2016**

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**Appeal Ref: APP/P2935/A/14/3000634**

**Seghill Caravan Park, Seghill, Cramlington, Northumberland NE23 7TL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Michael Burke against the decision of Northumberland County Council.
  - The application Ref 12/02720/FUL, dated 1 August 2012, was refused by notice dated 16 January 2015.
  - The development proposed is the construction of 16 residential dwellings, including 9 single storey eco-homes.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 16 residential dwellings, including 9 single storey eco-homes at Seghill Caravan Park, Seghill, Cramlington, Northumberland NE23 7TL in accordance with the terms of the application, Ref 12/02720/FUL, dated 1 August 2012, subject to the conditions set out in the schedule at the end of this decision.

### Preliminary Matters

2. The Council has withdrawn all three reasons for refusal in its final statement of case. I have carefully considered the evidence and I am satisfied that all of the associated issues have now been resolved. However, a number of interested parties raised concerns regarding harm to the Green Belt as well as one of the Council's own internal consultees. Consequently, the principal focus of this appeal will be the effect of the proposal on the Green Belt.
  3. The Council has concluded that there would be no impact on the setting of a nearby Grade II listed building, Seghill Hall. Nonetheless, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). During my site visit I also observed that the development would be within the setting of another Grade II listed building, the Gate Lodge to Seghill Hall. However, bearing in mind the separation distances and the layout of the proposed development, I am satisfied that it would not detract from the historic architectural interest of either of these listed buildings, thus satisfying the requirements of the Act.
  4. I have taken into account changes in case law relating to planning obligations and affordable housing contributions, which came into force on 31 July 2015, in reaching my decision [*West Berks DC and Reading BC v SSCLG [2015] EWHC*]
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2222 (*Admin*)]. The relevant content of this judgement has been considered but, given the facts of this case, it does not alter my conclusions.

5. Policy DC3 of the Blyth Valley Borough Council Development Control Policies DPD 2007 (DCP) seeks to control inappropriate development in the Green Belt. This policy predates the National Planning Policy Framework 2012 (the Framework) by five years and relies on policy guidance that has since been cancelled. Although the exceptions that are listed are not as extensive, the main thrust remains consistent with the Framework. I have consequently given it due weight.
6. The Council has an emerging plan that is at an early stage. As its policies are yet to be tested this appeal will be determined according to the relevant policies of the DCP and the Framework. Bearing in mind the main issues of this appeal I consider the most relevant development plan policy to be DC3 of the DCP, as agreed at the Hearing.

### **Application for Costs**

7. An application for costs was made by Mr Michael Burke against Northumberland County Council. This application will be the subject of a separate decision.

### **Main Issues**

8. As 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; 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**

#### *Background*

9. The appeal site covers an area of approximately 2.6ha and is situated in the grounds of Seghill Hall. It partially adjoins the north-western settlement boundary of Seghill village that is located on the other side of Seaton Burn. The appeal site is otherwise surrounded by open countryside. A caravan park has operated on the site since the 1960s and it currently has three occupied static caravans with standings for an additional 38 approved. Existing infrastructure includes mains water, gas, electricity and foul drainage as well as a surfaced access track. The appeal site has an implemented permission (Ref: 04/00613/FUL) for the operational development of the site for 41 static caravans and a certificate of lawfulness (Ref: 99/C/0028/P) for the stationing of residential caravans for permanent use.

#### *Whether inappropriate*

10. Paragraphs 89-90 of the Framework set out those categories of development which may be regarded as not inappropriate, subject to certain conditions. The Council has suggested that the appeal site is previously developed land and that its redevelopment would therefore constitute one of the exceptions of

paragraph 89. However, as caravans are temporary structures they are specifically excluded from this exception. I also note that the fixed surface structures that were present in the late 1970s have largely blended into the landscape across the majority of the site. Consequently, the extent to which the whole of the site may be considered previously developed land, as set out in Annex 2 of the Framework, is equivocal in my mind.

11. As the development 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. This view was accepted by the appellant during the course of the Hearing. 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*

12. 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 proposed construction of 16 dwellings and associated infrastructure on what is currently an open site would clearly reduce openness and lead to encroachment. However, the impact of the proposed development must be weighed against the full implementation of the existing permission for a residential caravan site comprising 41 pitches (the fallback position).
13. It was established at the Hearing that the impact on openness of the fallback position would be greater than the proposed development, both in terms of the total volume of the caravans and also the extent of associated infrastructure, e.g. parking, access roads, footways etc. I also note from the plans and my site visit that the plot density would be significantly greater and that the site would be more extensively developed if the fallback position were fully implemented. Consequently, I accept that the fallback position would lead to a significantly greater loss of openness. However, I find that there would little difference in terms of encroachment. This is because whilst more open, the extent of the proposed development would be similar to the fallback position and clearly apparent from the boundary features and domestic paraphernalia associated with each dwelling.
14. Despite the greater harm that would be caused by the fallback position, the proposal would nevertheless result in harm through encroachment and a loss of openness. 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 and the loss of openness.

### *Other considerations*

15. The Council has indicated that they believe that there is a high probability that the fallback position would be implemented and I agree. I accept that a residential caravan use of the site is legally available and that the appellant could either implement this through the signed agreements that have been

secured with potential occupants or through the outright sale of the site. I note from the evidence before me that deposits from potential occupants have been paid into the bank account of Rose Park Caravans Ltd in relation to the first option and that a prospective buyer of the site has come forward in relation to the second option. It was established at the Hearing that either option would allow the appellant to realise a similar land value and that there would consequently be no greater financial incentive to preclude the implementation of the fallback position. As this was not disputed and in the absence of any evidence to the contrary, I accept this to be the case. Consequently, I give this matter significant weight in favour of the development.

16. A planning obligation to provide five affordable dwellings and a financial contribution for sports and recreational facilities has been completed. It was established at the Hearing that there was a clear local need for affordable homes, particularly for rental purposes. This was supported by representatives of both the Parish Council and the County Council who attended the Hearing. A short fall of approximately 900 affordable homes across the whole local authority area was brought to my attention as well as a lack of suitable outdoor play facilities for younger children in Seghill. As these matters were not disputed and in the absence of any evidence to the contrary, I accept this to be the case. Consequently, I am satisfied that the contribution would be directly related to the proposed development. It would also be necessary to make it acceptable in planning terms given the requirements of saved policy G11 of the Blyth Valley District Local Plan 1999. Given the Council's recreation assessment<sup>1</sup> and the use of a standard charging structure, as indicated at the Hearing, I also find it would be fairly and reasonably related to the proposed development in both scale and kind. Bearing in mind the clearly established need for affordable housing and recreational facilities for younger children within the local community, I therefore give this matter significant weight in favour of the development.
17. I acknowledge the provision of nine 'eco-homes' that the appellant contends would meet the Level 5 standard for sustainable homes. However, the Code for Sustainable Homes was withdrawn in a Written Ministerial Statement on the 25 March 2015. Whilst such standards can be secured via condition under transitional arrangements, this can only occur if the standard is supported by a specific development plan policy. As I have no such policy before me there is no basis for securing this benefit. In any event I do not find that the achievement of this standard would be exceptional in comparison with more ambitious standards, such as zero carbon dwellings. Consequently, I give this matter only limited weight in favour of the development.
18. The Council acknowledges that it is unable to demonstrate a 5 year supply of deliverable housing sites. The appellant is of the opinion that the scheme would help to address this acknowledged shortfall and I accept that it would make a contribution. However, the Planning Practice Guidance 2014 (as amended) indicates that unmet housing need is unlikely to outweigh harm to the Green Belt and other harm sufficiently to justify inappropriate development. Bearing in mind the modest contribution that the scheme would make, I consequently give this matter limited weight in favour of the development.

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<sup>1</sup> PPG17 Open Space, Sport and Recreation Assessment 2011. Northumberland County Council.

19. The appellant has suggested that the proposed development would help to support the viability of services and facilities in Seghill and the surrounding villages. However, no substantiated evidence is before me to suggest that existing services are at risk or that the development is required to ensure their continuing viability. Indeed, it was noted at the Hearing that a number of existing businesses had recently been refurbished which suggests an ongoing profitability. I acknowledge the undisputed fact that the local school is undersubscribed but I am not satisfied that the factors that have led to this situation would be any different if the proposed development were to go ahead. This is because parents could still exercise their right to send their children to schools at other locations. Consequently, I give this matter little weight in favour of the development.
20. The appellant is of the opinion that the proposed landscaping would provide greater screening, particularly when viewed from the properties along Fox Lea Walk. However, I observed that a significant buffer of mature vegetation is present along Seaton Burn that already partly serves this purpose. Moreover, the appeal site is generally well vegetated. Consequently, I give this matter little weight in favour of the development.
21. I acknowledge that the appeal site is in a sustainable location and that future occupants would have access to a local bus service. However, this matter would not weigh in favour of the development. It is merely an absence of harm and thus is a neutral factor in the overall balance.

*Other Matters*

22. Additional concerns were raised by objectors to the proposed development in relation to matters relating to highway safety, flooding and wildlife. These matters were considered in the case officer's report and I support the view that the concerns raised do not warrant the refusal of the scheme. Consequently, none of these matters were determinative in the balance of this appeal. This is due to the following reasons.
23. The first concern related to the safe and efficient operation of the highway, particularly in the immediate vicinity of a weight-restricted bridge on Mill Lane. The discussion at the Hearing focussed on potential issues with pedestrian safety on the bridge given that future occupants would need to cross it in order to access local services. Particular concerns were raised in relation to unaccompanied school children. Issues were also raised concerning the use of the bridge by heavy vehicles. I will deal with each of these in turn.
24. I accept that there is no safe refuge on the bridge for pedestrians when large vehicles are passing. However, I observed that its span is limited and that the pedestrian crossing time is relatively short thus limiting the risk of potential conflict with vehicles. Indeed, it was confirmed at the Hearing that no accident has either been observed or recorded in the vicinity of the bridge. I also note the proposed improvements to the walkway on either side of the bridge would provide suitable refugia immediately prior to crossing and that the proposed priority traffic management system would also give motorists advanced warning of the potential hazard posed by this structure. Bearing in mind the above, I am satisfied that the proposal would not lead to any significant harm to pedestrians.

25. I now turn to the weight restriction. The load-bearing capacity of the bridge and its current use by heavy vehicles is neither a planning matter nor directly relevant to the proposed development. Alternative mechanisms are present concerning the enforcement of weight restrictions. Whilst I can appreciate potential issues of vehicles using the bridge during the construction phase of the development, this can be readily controlled via a transport management plan condition that limits access to an alternative route from the A19. I note that the fire service found this to be acceptable in relation to their heavy vehicles and that safe access from the A19 was possible despite the nature of the kerb structure at the junction. Consequently, I am satisfied that a viable alternative access exists.
26. More general concerns regarding highway network capacity were raised in the written objections to the proposal. However, the number of houses would be limited and would not lead to significant impacts on traffic flows, as indicated by the TRICS data as well as the professional judgement of the Highways Officer. Whilst the accuracy of the former has been questioned it is nevertheless a widely accepted approach and no technical arguments were advanced concerning its use in this particular instance. Furthermore, the assumption that future occupants will own more than one car is speculative and cannot therefore be substantiated. I am also mindful of paragraph 32 of the Framework which states that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe. Given the lack of supporting quantitative evidence of existing congestion this matter carries negligible weight.
27. I have carefully considered the technical evidence that has been submitted in relation to flooding and wildlife and I am satisfied that any significant negative impact on species of conservation concern or local hydrology can be avoided through suitably worded conditions.

*Very special circumstances*

28. 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 this development and the harm that it would cause to openness. On the other hand I have found that the fallback position in combination with the provision of affordable housing and recreation facilities carries significant weight in favour of the proposal. I have also found, albeit limited, benefit would arise from the sustainable building standards that have been adopted and the reduction of the housing shortfall.
29. On balance, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. As a result the proposal would not conflict with the Framework or saved policy DC3 of the DCP and would thus be in accordance with the development plan. This policy seeks, among other things, to ensure that development within the Green Belt is appropriately controlled.

## **Conclusion and Conditions**

30. For the above reasons and having considered all other matters I conclude that, subject to conditions, the appeal should be allowed.
31. I have considered both the wording and grounds for the conditions suggested by the Council in accordance with the tests set out in paragraph 206 of the Framework. In addition to the standard time limit condition, a condition requiring development to be carried out in accordance with the plans is necessary for the avoidance of doubt and in the interests of proper planning.
32. Bearing in mind the coal mining legacy of the local area two conditions requiring intrusive investigation and contamination remediation are necessary in order to ensure an adequate level of protection to people and buildings.
33. A condition requiring work to be carried out in accordance with identified mitigation measures, relating to wildlife and trees, is necessary to ensure the favourable conservation status of wildlife and to avoid adverse ecological impacts on the natural environment.
34. Two conditions relating to the management of the site and associated traffic are necessary to help protect the living conditions of nearby residents and ensure highway safety during the construction phase. Provision for protective fencing along Seaton Burn has also been included in one of these conditions in the interests of protecting the ecological value of the watercourse. A further condition limiting the hours of operation is also necessary to help protect the living conditions of nearby residents during construction.
35. Further details of soft landscaping works/maintenance as well as general boundary features are required in order to help to maintain and enhance the character and appearance of the local area and are the subject of a further three conditions. A condition requiring the submission of samples of materials is also included for similar reasons.
36. In response to local concerns over pedestrian safety a condition requiring the installation of road safety measures around Mill Lane bridge is also required. And finally, a condition requiring the implementation of a drainage scheme is necessary to mitigate potential flooding in the local area.
37. I have not included a number of suggested conditions that were drawn from the mitigation recommendations for trees and wildlife because these are already ensured via another condition. A further condition that was based on guidance that has been withdrawn is not included because it would be unenforceable.
38. One other condition requiring financial provisions and ongoing management of the riparian zone of Seaton Burn by a named body is not included. This is because no payment of money can be positively required when granting a planning permission and any long term management provision is more appropriately secured through a planning obligation.

*Roger Catchpole*

INSPECTOR

## CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P-016/003/A; P-016/004/A; P-016/10/F; P-016/012/A; P-016/015/A.
- 3) No development shall take place unless in accordance with the mitigation measures as specified in the submitted ecological reports<sup>2</sup>. Full details of any deviation from these recommendations shall be submitted to and approved in writing prior to any implementation. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place unless in accordance with the methodological statement and mitigation measures specified in the arboricultural report<sup>3</sup>. Full details of any deviation from these recommendations shall be submitted to and approved in writing prior to any implementation. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place, including any ground works, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: temporary protective fencing to include a riparian buffer of an appropriate width along Seaton Burn; the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 6) No development shall take place, including any ground works, until a Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for: the routing, timing and scheduling of all movements with details of escorts for abnormal loads, temporary warning signage, banksmen and proposed mitigation measures to avoid adverse traffic impacts.
- 7) Ground clearance or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 8) No development shall take place above ground until full details of soft landscape works have been submitted to, and approved in writing, by the local planning authority and these works shall be carried out as approved. These details shall include: planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants, noting species, plant sizes and

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<sup>2</sup> Extended Phase 1 and Ecological Surveys of Rose Park Caravan Park. E3 Ecology Ltd, November 2013. Breeding Bird and Butterfly Survey of Seghill Caravan Park, Report No.1. E3 Ecology Ltd, October 2013.

<sup>3</sup> Proposed Tree Protection & Arboricultural Method Statements for a Development at Rose Park Caravan Park, Seghill. E3 Ecology Ltd, December 2013.



- proposed densities where appropriate; and an implementation programme.
- 9) No development shall take place above ground until a schedule of landscape maintenance for a minimum period of 2 years has been submitted to, and approved in writing, by the local planning authority. The Schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved Schedule.
  - 10) No development above ground shall take place until a plan indicating the positions, design, materials and type of all boundary treatments to be erected has been submitted to, and approved in writing, by the local planning authority. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
  - 11) No development shall take place until an intrusive site investigation has been undertaken to establish any coal mining legacy issues present on the site and any remedial measures that may be necessary. The results of this investigation and any remediation shall be submitted to, and approved in writing, by the local planning authority. Any remediation works shall be carried out in accordance with the approved details prior to the commencement of any other ground works on the site.
  - 12) If, during the course of development, any contamination is found that has not been previously identified, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the additional measures and all work shall be carried out in accordance with the approved details.
  - 13) No development above ground shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to, and approved in writing, by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 14) No development shall take place until a scheme to improve pedestrian safety around the road bridge on Mill Lane which crosses Seaton Burn has been submitted to, and approved in writing, by the local planning authority. The Scheme shall provide for: a footway linking the development site with the existing footway at the junction of Fox Lea Walk but excluding the bridge itself; localised widening of the verges on the approaches to the bridge to ensure that suitable areas of refuge for pedestrians are present on both sides of the road; and a priority traffic management system that includes signs and road markings on the approaches to the bridge. Development shall be carried out in accordance with the approved details before first occupation of any of the dwelling.
  - 15) No dwelling shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to, and approved in writing, by the local planning authority. These details shall include the recommended drainage strategy and source

control measures suggested by Building Design (Northern) Ltd in their letter dated 16 February 2015 (Ref: CJE/R3121).

Richborough Estates

## APPEARANCES

### **For the Appellant**

Mr S Grant BA(hons) DipTP MRTPI	Planning Consultant
Mr J Potts MRTPI	Land Agent

### **For the Council**

Mr I Birkett	Senior Planning Officer
Ms A Rawlinson	Principal Planning Officer

### **Interested Parties**

Mr A Dixon	Local Resident
Mr D Mullen	Parish Councillor & Resident

### **Documents Submitted**

S1	Ariel photograph of Rose Park Caravan Site c.1978
S2	Bank statement of Rose Park Caravans Ltd
S3	Purchase offer for caravan site (22 March 2016)

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