
Appeal Decisions

Hearing held on 19 April 2016

Site visit made on 19 and 20 April 2016

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 25 May 2016

Appeal A: APP/P2935/W/15/3135278

Newminster Abbey House, Morpeth Northumberland NE61 2YL

- 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 Mr Les Stephenson against Northumberland County Council.
 - The application Ref 14/03332/OUT, is dated 8 October 2014.
 - The development proposed is the redevelopment of the garden, including demolition and relocation of the existing garage; reconfiguration of access arrangements to create 4 executive dwellings.
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Appeal B: APP/P2935/W/15/3135287

Land North of Springhill Walk and Emily Davison Avenue, Morpeth, Northumberland

- 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 Mr Les Stephenson against Northumberland County Council.
 - The application Ref 15/01788/OUT, is dated 27 May 2015.
 - The development proposed is for a minimum of 6 and a maximum of 8 dwellings with associated drainage, access, landscaping and amenity space.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Application for costs

3. At the Hearing an application for costs was made by the appellant against the Council. This application will be the subject of a separate Decision.

Preliminary Matters

4. The appeals relate to the Council's failure to issue a decision on the applications within the relevant time-scale. The Council has set out putative reasons for refusal and I shall use these as the basis for the main issues in

these cases. I undertook an accompanied site visit during the Hearing on 19 April and I visited the surrounding area including some of the other sites referred to at the Hearing on the following day.

5. The appeals both relate to outline applications with all detailed matters reserved for future consideration. Notwithstanding this, it was initially indicated that the access for Appeal A would be from the existing access at Newminster Abbey House; the information submitted later amended this to show that access would be through the site of Appeal B, notwithstanding that this is only indicative at this stage and not fixed by the appeal scheme.
6. The 2 appeal sites overlap in as much as the access for Appeal A would pass over the Appeal B site (and would also form the access for Appeal B site). Otherwise, the sites are immediately adjacent to each other.

Main Issues

7. The main issues in these appeals are as follows;
 - Whether the Council can demonstrate a suitable supply of housing land
 - The effects of the proposal being outside the defined settlement boundary
 - Whether the sites are in the Green Belt and what implications arise
 - The effects of the proposal in relation to ecology, archaeology and affordable housing.

Reasons

Whether the Council can demonstrate a suitable supply of housing land

8. The Council is currently preparing the Northumberland Core Strategy (CS) which is yet to go through the examination process. Within the emerging CS the Council identifies an Objectively Assessed Need (OAN) for housing and divides this into the identified Delivery Areas which reflect the different housing market areas. The appeal site falls within the Central Delivery Area (CDA). It appears that the appellant agrees with the OAN for the County and for the CDA; the annual requirement figure for the County is 1216 dwellings and for the CDA is 297 dwellings.
9. Taking account of previous years' undersupply, the Council considers that it can demonstrate a deliverable supply over 5 years of 2590 homes for the CDA and 8637 for the County. This compares to requirements of 1937 (CDA) and 7821 (County) using the Liverpool method for distributing previous years' undersupply or 2279 (CDA) and 8975 (County) using the Sedgfield method. Thus, for the County, the Council considers that it can demonstrate a 5.5 years or 4.8 years supply, depending on which method is used for spreading previous years' backlog, and for the CDA 6.7 years or 5.7 years supply.
10. The appellant has sought to dispute a number of the assumptions and figures put forward by the Council, these are generally as follows: some permission have expired and are not implemented; sites without planning permission have not been viability tested; 'windfall' allowance is disputed; level of contribution from long-term empty homes; the inclusion of Green Belt release sites; the 'data-cleanse' exercise includes some properties already occupied. The appellant also disputes the Council's preference for the Liverpool method, as

opposed to the Sedgefield method. The Council has provided a written statement which counters the criticisms raised by the appellant; in my judgement, I consider that the Council offers a robust defence of its stated position, whilst it does slightly modify its figures in the appellant's favour. It was notable that the appellant chose not to press these points at the Hearing, although I have not taken that as him accepting the Council's position. My assessment is based on his written evidence but I find that the Council has offered a sound substantiation of its position in relation to the points set out above. It also adds that a number of additional sites have received planning permission where some delivery is expected within 5 years and these should be factored into the calculations.

11. In relation to the specific sites raised by the appellant, the Council accepted that the deliverable 5 year figure could be reduced by 329; not as much as the appellant suggests but in the context of the discussions at the Hearing, this seems to be a realistic figure to me. However, I have also born in mind the comments made by the Council that it is not possible to present a complete assessment of housing delivery for all points in time and whilst the appellant has naturally concentrated on sites where delivery may be less than expected, there may be sites where delivery is ahead of forecasts and these will not have been reflected in the figures. It is partly for this reason that Councils are required to "...identify and update **annually** a supply of specific deliverable sites..." (my emphasis; Para 47 of the Framework) because the situation can and does fluctuate sometimes on a daily basis and to keep an exact record would not be feasible.
12. Notwithstanding the above, it is my judgement that there will be other developments which may be proceeding, or will at some stage within the 5 year period, at greater than forecast delivery that will go some way to balance out the reduction referred to above. Based solely on a reduction of 329, the Council could still demonstrate in excess of 5 years supply based on the Liverpool method but using the Sedgefield method, the figure would be 2261, compared to a requirement of 2279, for the CDA. It seems realistic to me to expect that there will be other sites where delivery will exceed expectations and so I judge it to be reasonable to conclude that this would result in an increase in the delivery figure of 2261 to greater than 2279. Therefore, I consider that the Council can demonstrate a 5 years supply of housing, even using the Sedgefield method.
13. There is disagreement as to whether the Liverpool or Sedgefield method is the appropriate method to use in this case. The national Planning Practice Guidance (PPG) advises that Council's should aim to deal with any undersupply within the first 5 years of the plan period (the Sedgefield method), where possible. The Council sets out that its future delivery is, in part, reliant on the release of Green Belt sites. Whilst it expects that some delivery may take place within the first 5 year period, this will be a small fraction of the whole delivery arising from these sites, which are generally expected to have longer lead in times and deliver within time periods of years 6-10 and 11-15. I have some sympathy with the Council's position in the light of these matters and whilst a clear signal from the PPG indicates preference for the Sedgefield method, it does state 'where possible' and I consider that the circumstances that the Council is likely to be in when relying greatly on large Green Belt release sites means that a justifiable exception to the norm is indicated.

The effects of the proposal being outside the defined settlement boundary

14. Saved Policies C1 and MC1 of the Castle Morpeth District Local Plan (LP) set out that development outside the boundaries of the settlements will not be permitted unless they are for specified essential needs or are specifically permitted by other policies; none of the exceptions or other policies are said to apply and I shall refer to Policy H6 later. In addition, the Morpeth Neighbourhood Plan includes Policy Set1 which is broadly similar to the LP policies. Although the Neighbourhood Plan has yet to be 'made' it has passed the referendum stage and I attach some weight to it.
15. The aims of the policies set out above are to protect open land beyond the boundaries, safeguarding their open and rural character. The sites in question are open and free from built development, although one site forms part of the curtilage of Newminster Abbey House. Even so, it is fenced off from the main garden, is open and has a semi-rural character. The other site bounds other residential gardens but is open and leads into wooded land outside the appeal site. I consider that the rural or semi-rural character of both sites would be unacceptably prejudiced by the proposed development, contrary to Policies C1 and MC1 of the LP and Set1 of the Neighbourhood Plan and there are no material considerations which outweigh this harm.
16. Policy H6 of the LP states that "*In very special circumstances proposals for special executive housing will be assessed on their individual planning merits...*" and in relation to criteria concerning, an assessment of need, impact on landscape, quality of design and contribution of the scheme to status of the Borough. Firstly, there are no very special circumstances that may justify the proposal; there is no quantifiable assessment of need and the design quality cannot be precisely determined, although I accept that this could be the subject of future submission. Additionally, I find that the proposal would unacceptably affect the landscape due to the loss of openness and its character.

Whether the sites are in the Green Belt

17. Saved Policy S5 of the Northumberland County and National Park Joint Structure Plan (SP) identifies the broad extent of an extension to the Green Belt and adds that '*precise boundaries, including those around settlements, should be defined in Local Plans...*'. The inner boundary of the Green Belt is indicated in the emerging Core Strategy, but this has not been adopted and can only be afforded limited weight.
18. From the evidence before me, I consider that Policy S5 sets the broader strategic framework which would be filled in and defined precisely within a local plan (in this case the CS). I can fully understand that the Council would want to consider the sites as Green Belt and I consider that the land here may well perform some of the functions of Green Belt land, but the position is not yet defined. Therefore, it cannot be said categorically that the sites are within the Green Belt.

The effects of the proposal in relation to ecology, archaeology and affordable housing

19. Both sites have been the subject of extended phase 1 surveys, although the one for Appeal B is somewhat dated. The more recent one for Appeal A

specifically includes part of Appeal site B due to the access over it. The appellant states that the text of the survey reveals that the survey for Appeal A actually covered all of the Appeal B site, even though the plan within it does not show this.

20. I have carefully read the relevant reports and it is ambiguous in what the actual extent of the surveys have been. The site at Appeal B where it overlaps Appeal A is identified as poor quality grassland with very few features such as trees or hedges or others, which may support wildlife; although it is accepted that wildlife may use the site to pass over. There is no physical delineation on the ground to separate out Appeal B land from that also included in Appeal A as its access. The land does not change in character and the type of vegetation is fairly consistent over the area. It is only when one passes outside either appeal site that woodland which would be of much greater value is encountered and is recognised in the reports. From what I have read and what I saw on site, I consider that the same approach to ecology which the Council accept as being appropriate over the site for Appeal A would be appropriate for Appeal B and so this could be covered by suitable conditions, if permission were to have been granted.
21. The site sits to the east of Newminster Abbey which is a scheduled ancient monument. The Council considers that the proximity of the site means that archaeological remains may be present on the site and that the absence of any assessment may mean that they may be prejudiced by the proposal. Whilst viewing the area I noted that the appeal site sits on land significantly higher than the Abbey and is separated from it by the steeply rising ground which is heavily wooded. From the information made available to me, it does not appear that the appeal sites fall within an archaeological priority area or some other similar designation which may suggest particularly sensitive treatment. In these circumstances I am content that if permission were to have been granted suitable conditions could have been included that could ensure investigation and any further necessary works were undertaken.
22. In relation to affordable housing, the appellant accepts the Council's position in relation to Appeal B, that a suitable contribution is justified. Although more usually secured by an Obligations, I am satisfied that a suitably worded condition could have been imposed, if permission were granted.

Conclusions

23. I have concluded that the Council can demonstrate a suitable supply of housing land. The proposals would involve development outside the defined settlement boundaries, as defined in the LP and the Neighbourhood Plan and would have an unacceptable effect on the rural/semi-rural and open character of the appeal sites. Although I have found that the sites cannot be said to be within the Green Belt and that no harm would arise in relation to ecology, archaeology and affordable housing, these are neutral considerations and do not outweigh the harm that I have identified.
24. In relation to an assessment of sustainable development, in relation to its 3 dimensions, the proposal would make a small contribution to the local economy from the construction jobs that it would temporarily support and the provision of new homes can be seen as a social benefit; however, these are far outweighed by the unacceptable environmental harm that would arise from the development of these sites outside the settlement boundary. Therefore, taken

as a whole, the proposals do not represent sustainable development and raise conflict with the development plan. As a consequence, both appeals are dismissed.

S T Wood

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

S Munro
L Stephenson

FOR THE LOCAL PLANNING AUTHORITY:

K Blyth
F Wilkinson
J Sanderson
C Askill
D Rowlinson
N Best
C Marlee
E Sinnamon
C Bewby

INTERESTED PERSONS:

A Tebbutt
J Tebbutt
J Soames
F Arthur

Richborough Estates