



Appeal Decision

Site visit made on 25 July 2016

by **Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

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

Decision date: 5th September 2016

Appeal Ref: APP/P2935/W/16/3148687

Land north of Leamington Lane between Kenmore Road and Studley Drive, Swarland, Northumberland

- 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 Kevin Monaghan against the decision of Northumberland County Council.
 - The application Ref 14/03340/FUL, dated 9 October 2014, was refused by notice dated 23 December 2015.
 - The development proposed is a high quality sustainable development consisting of 20 residential dwellings of 3, 4 and 5 bedrooms. A new shared surface access road is to connect to Leamington Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address on the application form was limited and I have added parts of the fuller address used by the Council when notifying interested persons of the application and the appeal, and in their decision notice, to that in the heading above.
3. As part of his appeal the appellant has provided a revised site layout plan, AL(O)02 Rev A, which shows a minor relocation of a detached garage to the north east corner plot. The nature of the change is minor and in considering the appeal in light of this revised drawing I do not consider that the interests of any parties will have been prejudiced by my so doing.

Main Issues

4. The main issues raised by this appeal are the effect the proposal would have on the character and appearance of the area and whether the proposed development would be at risk of flooding or give rise to flooding elsewhere.

Reasons

Character and appearance

5. The appeal site consists of a pair of paddocks on the north east side of Leamington Lane which are open and undeveloped other than a stable block. The site forms part of a wider area of attractive open countryside between Swarland and woods to the north, with isolated complexes of farm buildings
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- punctuating the landscape further afield. A mature hedge with individual mature trees lines much of the site along Leamington Lane.
6. The village of Swarland is characterised by almost all its built up area being located to the south east side of Leamington Lane which has a particularly straight alignment. The housing area immediately adjacent to Leamington Lane consists of a network of narrow, largely rectilinear streets serving fairly closely spaced detached houses, although the settlement extends to the south along Park Road in a more dispersed and linear pattern.
 7. Much of the village along Leamington Lane is set behind a dense belt of trees. A notable feature is the predominant absence of buildings to the north east side of Leamington Lane (particularly to the east of the road to Newton-on-the-Moor) which currently creates a very definite and legible edge to the north of the village. This relationship and distinctive delineation is a positive characteristic of both the village and the adjoining countryside.
 8. The proposed layout and design of houses has been informed by, and would broadly reflect, the character and appearance of that of existing development in Swarland. The proposal would have the effect of introducing a significant built up area to the north side of Leamington Lane and therefore beyond the currently distinct edge of the settlement. In doing so it would create a fundamental change in the established built configuration of the existing settlement. This change would result in an intrusion into the open countryside and harm the character of both the open countryside and the distinctive settlement pattern, and therefore character, of Swarland.
 9. The proposed perimeter planting scheme, which would retain and re-enforce the existing hedge along Leamington Lane, has the potential, in time, to help to make the proposed development considerably less conspicuous from Leamington Lane and the surrounding area. The mixture of one and a half storey and mansard roof arrangements for the proposed dwellings which would be set well back from Leamington Lane, along with the site's situation in the surrounding topography, would assist in reducing its visual effects. However, notwithstanding that according to the appellant's Outline Landscape & Visual Appraisal (OLVA) that it could take ten years for the development to be 'well screened', as with the mature planting alongside existing development, this would be unlikely to completely screen the proposed development, especially at times of year when hedges and trees are not in leaf.
 10. Therefore, whilst the landscape mitigation accords with the approach the OLVA states that the Northumberland Landscape Character Assessment and the Alnwick District Landscape Character Assessment (ADLCA) adopts with creating strong, natural enclosure patterns, this would not entirely reduce the visual intrusion the development would give rise to. Furthermore, the proposed access road leading into the site would remain as a prominent and obvious aspect of development from Leamington Lane. This would be to a considerably greater degree than the existing stables and field access.
 11. The fundamental and harmful change to the area's character would be less influenced by the planting and its visual effects which would not alter the harmful encroachment of development beyond the locally distinct settlement edge along Leamington Lane. Therefore, notwithstanding that the character of the wider landscape area may not compare favourably with others within the County, the character of the site and its surroundings are not without merit and

the site forms part of a wider area of gently undulating farmland which has significant character both in itself and in providing the landscape setting to Swarland.

12. It is this localised character of Swarland and its landscape setting to the north east which would be materially harmed as a result of the development. The presence of isolated building groups such as the First School or farms in the vicinity are, by virtue of their situation and setting, materially different in their relationship to the settlement and therefore would not alter this effect. This would be due to the proposal having the character and appearance of an extension to the residential development pattern of Swarland which straddles Leamington Lane.
13. Although the appellant does not consider that the site would constitute open countryside the site clearly has the character and appearance of such and is distinct and separated from the built up part of Swarland. There is little substantive evidence, including inclusion of the site and those nearby in the Northumberland Strategic Housing Land Availability Assessment (SHLAA), to indicate that it is not currently an area of countryside, the recognition of the intrinsic character and beauty of which is one of the National Planning Policy Framework's (the Framework) core planning principles¹.
14. The proposal would be contrary to Alnwick District Core Strategy Development Plan Document, 2007 (ADCS) Policy S14 which restricts development within the open countryside. The ADCS predates the Framework and although broadly in accordance with it the Framework has introduced more flexibility in rural areas.
15. One of the special circumstances the Framework identifies where new homes may be acceptable in the countryside is where the design of a dwelling is of exceptional quality or innovative in nature. Whilst the proposed dwellings themselves would be well designed, picking up cues from early phases of Swarland's development, be set in generous landscaping and have an ultra-low energy aspiration, there is little evidence to suggest that they would be in any way truly outstanding or innovative in their design or layout. The proposal would not, therefore, constitute such special circumstances.
16. Although the proposal would incorporate landscaping elements which would go some way to respecting the prevailing landscape character of the area, the scheme overall would nevertheless not enhance the distinctive landscape character of the area created by way of the distinctive relationship of the open countryside to the village and the very clear delineation between the two, a distinction acknowledged in the OLVA. As such the proposal would not comply with ADCS Policy S13.

Flooding

17. In support of his appeal the appellant has provided a Flood Risk Assessment Addendum (FRAA) which aims to overcome the Environment Agency's reasons for objecting to the application and the Council's subsequent reason for refusal. The FRAA identifies the site as being located within Flood Zone 1, with a low probability of flooding from rivers, although there is a low probability that minor surface water ponding could occur on the site.

¹ Paragraph 17.

18. The appellant states that the FRAA has been approved by the Council and the content agreed with the Environment Agency and I have been presented with no reasons to suggest that this is not the case.
19. The Environment Agency's objection was based on the choice of existing watercourse to which surface water would be discharged and the runoff rates. The FRAA has revised the previous proposal to indicate discharge to Kitswell Dene along with measures within the proposed housing area to avoid flooding of houses (including level changes and introduction of swales) and store surface water to enable controlled levels of runoff into the watercourse.
20. In the absence of any evidence to the contrary it would appear that the Environment Agency's and the Council's concerns in this respect have been addressed by the FRAA. Similarly I have not been presented with any evidence to suggest that details of the design of a sustainable drainage system and runoff rates could not be approved by way of appropriate planning conditions, therefore ensuring that an acceptable scheme could be implemented.
21. On balance, it therefore appears that the proposal would not lead to an unacceptable risk of flooding of future occupiers' homes or elsewhere. The proposal would comply with ADCS Policy S3 in this particular respect which requires that the potential implications of flood risk have been assessed having regard to the relevant flood zone, amongst other sustainability criteria. It would also accord with the Framework's approach of directing development to areas with a lower probability of flooding.

Planning Obligation

22. The appellant has provided an undertaking which includes provision for five of the proposed houses to be affordable as well as financial contributions towards a footpath between the site and the main route through the village, gateway signs and traffic calming measures and the creation of a 30mph zone on Leamington Lane.
23. The obligation contained in the undertaking to provide affordable housing is directly related to the development, is fairly and reasonably related in scale and kind to the development and could also be necessary to make the development acceptable in planning terms. As such that part of the undertaking accords with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (CIL) and the tests in the Framework, and I can therefore reasonably take it into account.
24. However, I have only been provided with limited information regarding the highways elements. Whilst the provision of a footpath would appear to be necessary to ensure that occupiers of the proposed houses would be able to walk safely to the village I have not been provided with any information relating to whether the contribution would cover the entire cost of the footpath link and there would appear to be no mechanism to ensure that the link would be implemented. However, it may be possible to secure implementation by way of an appropriate condition.
25. Whilst the other undertakings are no doubt desirable, as evidenced in part by the Parish Plan for Swarland and Newton-on-the-Moor (Parish Plan), I have been provided with little evidence as to whether they are necessary or that no

more than five separate planning obligations have required funding for the provision of those projects or type of infrastructure.

26. It cannot, therefore, be certain that the highways undertakings meet the CIL and Framework tests but as the scheme is being dismissed on other grounds I have not pursued this matter further.

Other Matters

27. The appellant's aims of trying to make a contribution to restructure the social balance and population composition of the settlement are laudable and has the support of some interested parties. However, other than the provision of affordable housing, there is little substantive evidence that would indicate that the provision of houses of the size and type proposed in this location would necessarily lead to an increase in families living in the village which the appellant considers are needed to ensure long term sustainability of the settlement nor that the effects would be transformational in their impact.
28. The proposal would, however, have the potential to support the recreational and community facilities in the village which would be a benefit. However, the appellant states that these are closing at a rapid rate and it is unclear whether the limited patronage the development would generate would in itself reverse this decline.
29. Given its location and route the provision of the footpath link would largely mitigate against any harm to the safety of new occupiers of the housing and there is limited information to suggest it would be of any wider benefit, although I note this is one of a list of potential measures identified in the Parish Plan.
30. The appellant puts considerable emphasis on the SHLAA, including the relative merits of nearby higher scoring sites on the north east side of Leamington Lane. The OLVA also examines the relative virtues of alternative locations for new development in Swarland which reflects the appellant's view that the appeal site, along with adjacent SHLAA sites, are preferable in landscape terms to the ADLCA's suggestion that development to the south east of Swarland would be most likely. However, in looking at the appeal site on its own merits this does not lead me to conclude that the site is otherwise acceptable in terms of its effect on the area's character and appearance in light of the harm I have identified.
31. In any event, the SHLAA is an assessment of availability of potential housing sites and does not indicate that they would necessarily be allocated in any emerging plan. I have not been presented with any evidence that adjacent sites have been included within any emerging plan such as the Northumberland Local Plan Core Strategy Pre Submission Draft (NLPCS).
32. Although its early stage of preparation limits the weight to which I can give it, NLPCS Policy 3 (e) cited by the appellant would not indicate that the proposal would be acceptable particularly in light of criteria ii., v. and vi. which requires development to avoid adversely impacting on a settlement's character, provide mitigation to minimise harm to the countryside and protect the countryside from widespread new development. In light of the harm identified above it is also not certain that the proposal would comply with emerging NLPCS Policy 30.

33. On the available evidence it cannot be concluded that the development, or indeed that of nearby sites identified in the SHLAA, would be essential to deliver a five year supply of deliverable housing sites (the provision of which is not a matter of dispute between the parties), either now or in the future.
34. The appellant has brought my attention to recent decisions the Council has made in Longframlington and Rothbury which he considers comparable to the appeal proposal. However, from the information provided it would appear that both these sites have a different relationship with the settlements to which they would be adjacent to that which the appeal site does. There is no suggestion from the planning committee reports that either location has the same settlement characteristic as Swarland with such a distinctive edge along an adjoining road. Furthermore, the Council's concerns in the appeal proposal do not relate to a settlement boundary designated in a development plan but the character of the settlement, albeit that in the case of Swarland they may well relate to the same distinctive feature of Leamington Lane.
35. The appellant has also drawn my attention to an appeal decision in Lincolnshire². I do not disagree that it is self-evident that a housing development on a greenfield site will dramatically change its character and that would not necessarily render it unacceptable as a result in principle. However, I note that the Inspector in that case found that the pattern of growth in that particular settlement was random and varied between the appeal site and the village core and the circumstances appear to be materially distinct to those of this appeal proposal.

Overall Assessment and Planning Balance

36. Although I have not found any harm in terms of flooding this weighs neutrally in the planning balance.
37. The benefits of the scheme include a contribution to the supply of housing, a quarter of which would be affordable, which support the Framework's to aim to boost significantly the supply of housing³. The provision of affordable housing, particularly in light of the appellant's comments regarding the availability of such accommodation in the Swarland area currently, is a matter to which I attach considerable weight.
38. New development in settlements which helps to build communities by sustaining facilities or providing affordable housing is supported by criterion 6 of ADCS Policy S3. However, this is tempered by criterion 5 which seeks to avoid significant adverse effects of development on the environment, amongst other interests and therefore would not, on balance, comply with this Policy.
39. The proposal would have some economic and social benefits by way of occupiers of new dwellings supporting community facilities in Swarland and there would be some, time limited, economic benefits as a result of the construction phase of the development. The landscaping could enhance biodiversity in the area through the potential for appropriate habitat creation which would be an environmental benefit. Together, these benefits are something to which I have given material weight.

² Ref: APP/N2535/W/15/3103245.

³ Paragraph 47.

40. These benefits are also positive components of sustainable development which the Framework presumes in favour of⁴. However, I am also mindful of the Minister of State's comments⁵ relating to the importance of the environmental dimension of sustainable development and the importance the Framework attaches to protecting the countryside. The loss of this area of countryside and the attendant adverse effect on the character of Swarland would be a significant negative factor in the environmental dimension of sustainable development.
41. Notwithstanding the factors which weigh in favour of sustainable development, considered as a whole in the overall balance I consider that the proposal would not constitute sustainable development in terms of the three strands set out in the Framework⁶. The considerations in favour of the proposal are not such that they outweigh the significant harm of developing in the countryside and harming the character of the settlement and the importance these matters carry, contrary to development plan policies. In considering the planning balance it is clear that permission should not be granted.

Conclusion

42. For the reasons set out above, and having had regard to all other matters raised, the appeal is dismissed.

Geoff Underwood

INSPECTOR

Richborough Estates

⁴ Paragraph 14.

⁵ Letter from Brandon Lewis to Simon Ridley, 27 March 2015.

⁶ Paragraph 7.