
Appeal Decision

Site visit made on 24 April 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2019

Appeal Ref: APP/X1355/W/19/3219582

Fied 7245, North/North-East of St Cuthbert's Crescent, (East of Salter's Lane), Trimdon Village, County Durham TS29 6PL

- 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 Mr Roger Valks against the decision of Durham County Council.
 - The application Ref DM/18/00034/OUT, dated 5 January 2018, was refused by notice dated 23 November 2018.
 - The development proposed is described as residential development of up to 50 dwelling houses (40 shown indicatively on layout plan) with all matters, except access, reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline form, with all matters other than access reserved for later approval. The submission is supported an illustrative layout plan which shows broad parameters for the location of development, and the areas of the site intended for landscaping and to be left open. The Council have dealt with this plan on the basis that it provides broad parameters for how reserved matters should be dealt with and I have therefore treated the plan in the same way, with layout, scale, appearance and landscaping as matters reserved for future consideration.

Main Issue

3. The main issues are the effect of the proposed development on the character and appearance of the surrounding area and the Trimdon Conservation Area.

Reasons

4. The appeal site comprises a roughly triangular plot of land north of the village of Trimdon, which is a larger village, consisting of established residential estates with a small range of services.
5. This part of Trimdon is not urban in character and the proposed development would be located in a semi-rural environment. The appeal site is a relatively large area of green space that makes an important contribution to the character and appearance of the countryside and forms part of the open expanse at the northern entrance to the village.
6. The appeal site is not located within the Trimdon Village Conservation Area (TVCA) and only a small part of the appeal site abuts the boundary of the

TVCA. The TVCA is set around a traditional village green and includes a number of historic buildings. To the south the TVBA is bound by new housing development but the northern boundary remains open. The Conservation Area Appraisal clearly identifies the value of the surrounding landscape, specifically the northern edge of the TVCA and views northwards, as contributing *significantly* to the setting of the conservation area.

7. Public footpaths transect the site, I observed at my site visit that these provide public views across the site, of the landscape to the north and back to the TVCA.
8. The proposal is for the construction of up to 50 dwellings. While the scheme is in outline and the final scale, massing and design of the dwellings and any boundary treatments cannot be fully assessed, the proposed development would nevertheless introduce a significant and relatively densely packed built form into the otherwise open landscape that would have a detrimental effect on the character and appearance of the area. The proposal would also have an unacceptable impact on the existing setting and framing of the village, particularly when approached from the north.
9. Therefore, the proposed development would be contrary with Saved Policies E1 and H8 of the Sedgefield Borough Local Plan 1996 (the Local Plan) which seek to protect the character and appearance of the area. It would also not accord with the relevant advice in the National Planning Policy Framework, particularly the requirement in paragraphs 127 and 170 which require development to be sympathetic to local character including the landscape setting.
10. The appellant asserts that the proposed development is sufficiently distanced from the TVCA so as to have *no tangible impact on it*. However, the appeal site clearly forms an important part of the setting of the TVCA and the development of the site as proposed would have, as a result of the scale of the development, the proximity of the site to the TVCA and the visual relationship that exists, a detrimental impact on the TVCA.
11. I therefore find that the proposed development would result in less than substantial harm to the significance of the TVCA and would therefore be contrary to saved policy E18 of the Local Plan.
12. I am statutorily required¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the TVCA. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal². Any harm should require clear and convincing justification³.
13. The proposed development would deliver approximately 50 new homes and while the 5-year housing land supply position is at dispute between the parties, I none the less give this public benefit some weight. Furthermore, the development of additional housing would potentially support shops and services within Trimdon, again I give this benefit some weight. However, the benefits of the proposed development do not overcome the harm that I have identified above, harm that I am required to give great weight to.

¹ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990

² Paragraph 196 – National Planning Policy Framework

³ Paragraph 193 – National Planning Policy Framework

Other Matters

14. In the course of determining the application the Council sought various contributions including in respect of education, open space, rights of way improvements and affordable housing. In support of the application, the Appellant submitted a Viability Assessment (VA) demonstrating that the scheme could not provide the required level of affordable housing, other contributions and remain viable. Indeed, even without the provision of affordable housing the proposed development was shown to result in a negative residual land value.
15. The negative residual land value was substantially in excess of the requested contributions and as such even without the contributions the scheme would presumably still appear unviable. Indeed, the VA does not detail any scenario in which the proposed development would result in a positive residual land value. Despite the apparent lack of viability, the appellant continued with the application and this appeal. Furthermore, as detailed in correspondence submitted by the Council the appellant indicated that he was willing to enter into a legal agreement to make the requested contributions at that time.
16. A number of the figures and assumptions used to generate the VA are at dispute between the parties, in particular with regards sales revenues, build costs, fees and developer profit. The VA provides limited explanation and evidence for the figures and assumptions used. Moreover, the appellant has demonstrated a willingness, in correspondence with the Council, to vary the figures used and to progress with an apparently unviable scheme.
17. Taking these matters together I am not persuaded that the submitted material provides a sound basis for concluding that the proposed development cannot support a contribution for affordable housing and/or other appropriate contributions sought by the Council.
18. No legal agreement or other mechanism to make appropriate provision of affordable housing or other contributions, has been submitted with the appeal and in accordance with guidance set out in the Planning Practice Guidance.
19. The proposed development is therefore contrary to saved policy H19 of the Sedgefield Borough Local Plan (1996) (SBLP) that requires the provision of a range of dwellings, including affordable housing.

Conclusion

20. For the reasons detailed above, I conclude the appeal should be dismissed.

Mark Brooker

INSPECTOR