



Appeal Decision

Site visit made on 25 June 2014

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 10 November 2014

Appeal Ref: APP/X1355/A/14/2214713

Land to the South of Loud Reservoir, Loud Hill, Stanley, Greencroft, County Durham

- 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 David Forster against the decision of Durham County Council.
 - The application Ref GB/1/2013/0215/DMOP, dated 2 May 2013, was refused by notice dated 2 December 2013.
 - The development proposed is for outline planning permission for the construction of 22 self build homes. The applicant intends to construct the services to each plot, with each plot sold to individuals who will then commission or self-build bespoke homes.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for outline planning permission, with approval sought at this stage for access only. Appearance, landscaping, scale and layout are therefore reserved matters.
3. During the course of the planning application, additional information was submitted by the appellant in support of ecological and highway issues. This information was in the form of a reptile survey and a habitat survey for dingy skipper, as well as a technical response to the Council's review of access options to the appeal site, and was used by the Council to inform its decision on the planning application.
4. The content of the published national Planning Practice Guidance has been considered, but in light of the facts in this case the national Planning Practice Guidance does not alter my conclusions.

Main Issues

5. The main issues are;
 - whether or not there are special circumstances to justify the construction of dwellings in this countryside location;
 - the effect of the proposal on the safety of vehicles and pedestrians; and,
 - the effect of the proposal on the biodiversity of the site.

Reasons

Residential development in the countryside

6. The appeal site comprises 2.5 hectares of disused land which was originally constructed as a reservoir with associated buildings, albeit that both the reservoir and buildings have been demolished. The site occupies an elevated position but is well screened from the surrounding countryside by a combination of stone walls and mature screen planting and trees. There was significant evidence across the site of the recent demolition of the reservoir with stone blocks scattered over a large part of the site, intermingled with ephemeral vegetation and grassland.
7. The appeal site is located to the west of the nearest dwellings at Loud Terrace, and on the opposite side of the road, with the services and facilities of Annfield Plain in excess of 500 metres away to the east. Although I noted a covered reservoir and a dwelling located close to the site on the northern side of the road, the appeal site itself does not adjoin the existing extent of the settlement, being bounded to the west, south and east by fields. In this respect, the site would therefore be assessed as being located outside of an existing settlement and within the open countryside. Saved Policies EN1 and EN2 of the Derwentside District Local Plan 1997 (the Local Plan) seek to permit development in the countryside only where it benefits the rural economy, is sensitively related to existing settlement patterns, and does not result in an encroachment into the surrounding countryside. This is broadly consistent with the National Planning Policy Framework (the Framework) which also sets out the special circumstances which would justify new residential development in the countryside at paragraph 55.
8. The appellant has provided no indication that the proposed development would accord with any of the special circumstances as set out in the Framework. Furthermore, neither party has highlighted that the appeal site should be regarded as a rural exception site providing affordable housing, as described in paragraph 54 of the Framework, although I have had regard to the appellant's willingness to agree to a commuted sum payment in lieu of the provision of affordable homes on the site. Whilst the site would benefit from an existing pavement link to Annfield Plain, the distance involved to access services and facilities combined with the relatively steep gradient of Loud Hill, is unlikely to discourage the use of the private car. I have taken into account that the land has been previously developed, but given the location of the site this cannot be regarded as an overriding factor in assessing its suitability for residential development.
9. I have noted the appellant's contention that the proximity of the appeal site to other nearby properties and development would render its position and appearance as not isolated in the context of both the assessment against the Framework, and also in respect of its position in relation to Annfield Plain. However, from my observations at the site visit, there was a clear separation created by the adjacent fields between the appeal site and the existing settlement itself which would accentuate the isolation of the site from Annfield Plain and its services and facilities. Furthermore, whilst accepting that the site would be generally well-screened, the introduction of such a comparably large scale of residential development in this location would not be sensitive to the defining characteristics of the immediate area.

10. The appellant contends that the proposed development would support the rural economy through the delivery of economic benefits in respect of increased expenditure and income in the locality, as well as the potential during the build period for in excess of 10 full-time jobs being created in the construction industry. Whilst I have taken this into account in reaching my conclusion, I have also had regard to paragraph 28 of the Framework, which seeks to encourage a positive approach to economic growth in rural areas where it would create jobs and prosperity. However, the paragraph makes it clear that this would be dependent on new development being sustainable, which for the reasons already set out, would not be the case in this instance.
11. The appellant has promoted the appeal site as an opportunity to provide self-build housing, citing support for the principle within the *11th Report of the Communities and Local Government Select Committee*, as a means of addressing housing shortfall in the UK. However, whilst government thinking may indicate the need to support and promote such sites, the appellant has not placed any compelling evidence before me that the provision of such sites should override the principles regarding the location and sustainability of residential development in the countryside, as set out in the Framework. I have noted the appellant's contention that the emerging Local Plan has not allocated any sites for self-build housing, and also the appellant's representations in connection with the Durham County Council Local Plan Preferred Options. However, there is no evidence before me to indicate that this site should be brought forward for development in advance of the adoption of the emerging Local Plan, or that there are no other suitable or deliverable sites available within existing settlements. Furthermore, I am satisfied that this would be an exercise which would be more appropriately undertaken as part of the ongoing Local Plan process rather than on a piecemeal basis.
12. It has also been highlighted that the site could be viewed as executive housing, for which the appellant has stated that there is a recognised shortage within County Durham. Whilst I have considered this point, the application was made explicitly on the basis of self-build housing. In any event, and consistent with the conclusion I have reached with regards to self-build housing, there is no compelling evidence before me as to the appropriateness of developing this site in this manner, in advance or in lieu of the adoption of the emerging Local Plan.
13. On the basis of evidence submitted and my observations on site, I conclude that the proposals would result in an unjustified and unsustainable form of development within the countryside. The proposal would thus conflict with saved Policies EN1 and EN2 of the Local Plan, which seek to protect the countryside from unnecessary development and encroachment into the countryside surrounding existing settlements. Furthermore, the proposed development would also conflict with paragraph 55 of the Framework, which sets out the special circumstances which would justify new residential development in the countryside.

Highway safety

14. The existing access to the appeal site is provided through a break in the boundary wall on the road elevation, and across a wide pavement by means of a dropped kerb. The access to the road is taken at the brow of the hill where the speed limit alters from 30 miles per hour (mph) to a de-restricted national speed limit of 60mph. Whilst wider than the existing, the proposed access

- would be taken from a broadly similar position, and would comprise a roundabout.
15. The appellant's transport consultant accepts that the position of the site at the top of the hill is at a point where forward visibility is below the required standard due to the vertical curvature of the road, and that the substandard visibility is exacerbated by the average speed of vehicles travelling passed the site to and from the east being in excess of the 30 mph speed limit. In this respect, I have had regard to the appellant's contention that the provision of a roundabout would, in combination with a suite of traffic calming measures, have a beneficial impact in reducing traffic speeds.
 16. I accept that the provision of a roundabout would provide both a physical interruption within the highway environment, as well as a visual prompt of the position of the new access for road users. However, having considered the contrary arguments, there is no definitive evidence before me that the combined measures would reduce average speeds to within the 30 mph limit as claimed. Furthermore, whilst my attention has not been drawn to any express reference within the Design Manual for Roads and Bridges (DMRB) precluding the use of roundabouts for smaller scale developments, I share the Council's concern over the impact on highway safety resulting from the free flow of through traffic on West Road across the roundabout, from the predicted low use of the roundabout arm serving the development. Therefore, on the basis of the submitted evidence and my observations on site, I am not satisfied that the proposed access arrangement has demonstrated that it would provide sufficient mitigation for the existing substandard forward visibility, and consequently would provide safe access to the adopted highway network.
 17. In reaching my conclusions on this issue, I have had regard to the differing positions between the main parties in respect of the stated speed limits and actual traffic speeds. In this latter respect, whilst I have had regard to the speed limits for traffic passing the site, my assessment of the proposals has been on the basis of the actual highway conditions as reported and observed. For the same reasons, whilst I have considered the Council's position in respect of the potential for a future raising of the speed limit to reflect prevailing traffic conditions, the possibility of such action in the future has not been a decisive factor in my decision-making.
 18. I have noted the other access options which have been referred to by the appellant in their evidence, although I note that these have not been formally proposed by the appellant. I have also considered the limited incidence of reported accidents for this stretch of road, but do not find that this supports a compelling argument in favour of the development.
 19. I conclude that the proposed development would be harmful to highway safety contrary to saved Policy TR2 of the Local Plan, which seeks to ensure that new development incorporates a safe and satisfactory access onto the adopted road network.

Biodiversity

20. The Framework highlights that the planning system should contribute to, and enhance the natural environment by minimising impacts on biodiversity and providing net gains where possible. Paragraph 118 of the Framework advises that when determining planning applications, if significant harm resulting from

a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This stance is broadly reflected in saved Policy GDP 1(d) of the Local Plan, which identifies that schemes must incorporate measures to protect important national or local wildlife habitats, and ensure that there is no harmful impact on the ecology of the district.

21. The Council's concerns regarding biodiversity centre on the loss of habitat for *dingy skipper*, which the Council has highlighted as being a species of butterfly identified as a priority species in both the UK and Durham Biodiversity Action Plans (BAP). The appellant, through their own commissioned Habitat Survey for *dingy skipper*, has accepted that the site currently provides suitable habitat, including high quality habitat in the north of the site, comprising bare ground associated with areas of short open rabbit grazed grassland, taller patches of appropriate vegetation, and bare patches for basking. Nevertheless, the appellant has indicated that as a result of the colonisation of rank vegetation, over the next 5 – 10 years the site will become unsuitable as habitat if left unmanaged.
22. It has been indicated within the Extended Phase 1 Habitat Survey for the site that general opportunities for nature conservation enhancement are likely to be possible on landscaped areas of the developed site. However, in this respect I have also had particular regard to the conclusion of the Habitat Survey for *dingy skipper* that due to the habitat requirements, it is unlikely that habitat for this species will be retained during the development. I have given careful consideration to the appellant's assertions regarding the likely deterioration of the existing habitat on the site. Nevertheless, I am satisfied that the development has not addressed the current situation on the appeal site or the requirements of paragraph 118 of the Framework to avoid, mitigate, or compensate for significant harm to biodiversity. In this respect, the proposals do not satisfactorily address the loss of habitat for the *dingy skipper*.
23. The appellant has also undertaken a reptile survey on the site. However, this survey did not produce any positive results, and the Council has not disputed the findings of the survey.
24. Whilst I have had regard to the conclusions of the Reptile Survey, the absence of measures to avoid, mitigate, or compensate for the loss of habitat for the *dingy skipper*, would result in significant harm to the biodiversity interest of the appeal site. As a consequence the proposed development would not accord with saved Policies GDP1 and EN1 of the Local Plan, which seek to ensure that proposals protect and are sensitively related to existing natural and wildlife resources in the area, and protect important national and local wildlife habitats. Furthermore, the proposals would also not accord with paragraph 118 of the Framework, which seeks to ensure that biodiversity is conserved and enhanced.

Other Matters

25. The appellant has drawn my attention to the encouragement which would be given for the principle of renewable energy generation on site, as well as the use of design codes to govern the appearance of the development. However, whilst these matters would provide limited weight in support of the proposals, they would not outweigh the harm identified in respect of the main issue.

26. The appellant has also raised some concerns over the handling of the application. However these have not had a bearing on the appeal before me.

Conclusion

27. For the reasons given above, the appeal is dismissed.

M Seaton

INSPECTOR

Richborough Estates