



Appeal Decision

Hearing held on 5 November 2014

Site visit made on 5 November 2014

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 12 January 2015

Appeal Ref: APP/P2935/A/14/2212818

Land South of Grange Road, Shilbottle, 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 The Northumberland Estates against the decision of Northumberland County Council.
 - The application Ref 12/02093/FUL, dated 3 July 2012, was refused by notice dated 11 September 2013.
 - The proposal is development comprising 47 residential dwellings, doctor's surgery, start-up business units, landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for a development comprising 47 residential dwellings, doctor's surgery, start-up business units, landscaping and associated infrastructure at Land South of Grange Road, Shilbottle, Northumberland in accordance with the terms of the application, Ref 12/02093/FUL, dated 3 July 2012, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The proposal was refused planning permission by the Northumberland County Council (NCC). However between the lodging of the appeal and the Hearing taking place, the NCC withdrew its opposition on the basis of further advice and information that was made available.
3. A completed unilateral planning obligation deed has been submitted by the appellant in respect of on-site affordable housing and financial contributions towards the provision or enhancement of off-site sports and recreation facilities in the Borough and a Traffic Regulation Order (TRO). I return to this matter below.

Application for costs

4. Prior to the Hearing an application for costs was made by The Northumberland Estates against the NCC. This application is the subject of a separate Decision.

Main Issue

5. The opposition to the proposal was maintained by Shilbottle Parish Council, rather than the NCC, for the same reason that it was refused planning permission. The main issue in this appeal is therefore whether or not adequate

arrangements would be made for the disposal of foul and surface water from the site, and whether the proposal would be at risk from flooding or would increase flooding elsewhere.

Reasons

Flood Risk

6. The appeal site is an undeveloped open agricultural field, which slopes downwards towards the Grange Road highway. It is uncontested that this area, and nearby residential developments, have suffered from flooding as a result of surface and foul water disposal problems in recent years.
7. The Environment Agency Flood Map for Shilbottle shows the site to lie within Flood Zone 1, with a low probability of flooding, which is assessed as having less than 0.1% (1 in 1000) year annual probability of river or sea flooding. The wrong site boundary was identified in an earlier version of the appellant's Flood Risk Assessment however this has now been rectified.
8. Nonetheless, the Parish Council and local residents are concerned about the capacity of the Sewage Treatment Works (STW) at Shilbottle to accept additional foul and surface water flows from the development and the potential of the proposal to exacerbate ongoing issues regarding flooding in the area. At the Hearing I also heard that they were uncertain of when the proposed upgrading works to the STW would be complete, and that they were concerned that the use of tankers to remove foul waste did not adequately demonstrate that the development could accommodate the flows within the site.
9. The sewerage system in Shilbottle is predominantly combined receiving foul flows and surface water run off from urban areas. The appeal site due to its sloping nature currently has problems regarding water flowing across the ground and onto the public highway during periods of heavy rain. This subsequently discharges into the combined sewerage system through the existing gulleys on Grange Road. I was informed at the Hearing that sediments which are swept along with the run-off from this arable land have also blocked the gulleys and drainage system in the past.
10. Northumbrian Water (NWL) has confirmed that the combined sewerage system suffers from excess across ground surface water entering the system. These flows effectively take up the spare capacity for foul flows from development. However, swales are proposed to be located along the southern perimeter of the appeal site to intercept surface water runoff from the remaining farm land. These would store run-off via an underground attenuation and storage tank prior to discharge into Tyelaw Burn. The surface water run off rates from the proposed development (within the site) would also be attenuated and stored on-site to existing 'greenfield rates', before also being discharged at a controlled rate into Tyelaw Burn.
11. These measures would avoid the across ground run-off problems and blockages that currently exist. Furthermore, they would result in the separation of the surface water and foul sewerage systems so that they would discharge into Tyelaw Burn and the combined sewer system respectively.
12. NWL are satisfied that by removing the excess surface water from the combined sewerage system it can accept the foul water flows from the proposal within their network without increasing flood risk. I am also mindful of an

email from them which confirms that upgrading works to the STW are currently taking place and are likely to be completed by March 2015. The email confirms that the upgrading works will allow flows from the development to be accepted into the STW. It is therefore likely that these upgrades would be completed prior to the occupation of any of the proposed dwellings, which as a result would no longer require tankers to transfer foul waters.

13. The Environment Agency and the NCC's SuDS Officer have now removed any objections that they had to the proposed scheme, subject to conditions regarding, amongst other things, management and maintenance. Therefore, whilst it is acknowledged that the area suffers from flooding issues, I have little substantive evidence before me to conclude that the proposal would put pressure on the existing sewerage system and exacerbate the current situation. In fact, I consider that it would provide wider flood risk benefits.
14. I therefore conclude that adequate arrangements would be made for the disposal of foul and surface water from the site, and that the proposal would not be at risk from flooding or increase flooding elsewhere. As such it would comply with Policies S3 and S16 of the Alnwick District Local Development Framework Core Strategy Development Plan Document (Core Strategy) (2007). Collectively, these require, amongst other matters, for the potential implications of flood risk to be assessed, and for the principles of sustainable urban drainage and sustainable water supply to be applied.

Other Matters

15. The Parish Council and local residents have raised a number of other matters, including the accessibility of services, the need for new housing and the doctor's surgery and business units, affordable housing, and the capacity of local schools to accommodate extra pupils. Concerns regarding the effect of the proposal on the character and appearance of the surrounding area, highway safety and the living conditions of neighbouring residents were also discussed at the Hearing.
16. At the Hearing I heard the Parish Council's concerns about Shilbottle's limited infrastructure and services, and the increase in residential development in this area. I have had regard to the Shilbottle Future Development Options Study Planning Report (2010) and appreciate that the appeal site is unallocated and cannot be considered to constitute previously development land. However Policy S1 of the Core Strategy identifies Shilbottle as being amongst a group of sustainable village centres within a settlement hierarchy. I saw on my site visit that there is currently a post office, pharmacy, village store, and working men's club on Grange Road. There is also a community hall and first school within walking distance and an hourly bus service along Grange Road, with bus stops and shelters in very close proximity to the appeal site.
17. I appreciate that future residents of the proposed development would be predominantly dependant on the private car for some trips and that the surgery and business units would increase vehicle movements in this area. However paragraph 4.2.6 of the Core Strategy accepts that in some circumstances development may be permitted within the district because of the advantages that it brings for environmental, economic or social reasons even though it may be contrary to some sustainability principles.

18. It has also been put to me that the NCC has a 7 year housing land supply and that there is no need for additional housing in this area. To this end Core Strategy Policy S2 sets out a sequential approach to new development with the first tier including previously developed land and buildings within the urban areas of sustainable village centres. As it is within a sustainable village centre, the appeal site would fall within the second tier of the sequential approach, which is for other suitable sites within the urban areas of other sustainable village centres not identified as land to be protected for nature or heritage conservation or recreation purposes.
19. Officers indicate that they are happy that the sequential approach has been applied and that the appellant has demonstrated that there are no other suitable sites, including that on previously developed land, which could accommodate the proposal. Officers are also satisfied that based on current figures there is scope to consider new housing within sustainable village centres as there is a lower level of overall supply in these settlements. I have no reason to disagree with this or conclude that there would be harm arising from an oversupply of housing in the area.
20. Whilst the delivery of the proposed doctor's surgery and business units cannot be guaranteed, and I note that they have been referred to as "red herrings" by local residents, they are before me as a part of the appeal proposal. There is little evidence to suggest that they would not be delivered if the appeal was to succeed. I am aware that a further planning application for residential development without the surgery and business units was submitted by the appellant and refused planning permission on this site; however I am required to determine the appeal based on its own particular merits. I therefore consider that the surgery and business units would bring further economic and social benefits to the area by the way of jobs, and healthcare.
21. As such I agree with the NCC in that the site is in a sustainable location and well related to and within a sustainable village centre. Whilst I was informed at the Hearing that the local post office is soon to close, the resultant increase in residents to this area would be likely to support the retention and growth of the existing and proposed services and facilities in Shilbottle. I am also mindful that the NCC's Housing Enabler is satisfied that the proposal would provide a suitable mix of affordable housing (14 in total) to meet an identified need. These factors also weigh in favour of the proposal.
22. I therefore consider that the new housing, healthcare and business units in this location, whilst dependent on the use of the private car for some trips, would provide other economic, environmental and social advantages to the district, that would outweigh this limited harm. The principle of this development is therefore acceptable and would comply with the sustainability criteria outlined in Core Strategy Policy S3, which I consider to be consistent with the objectives of the National Planning Policy Framework (the Framework).
23. At the Hearing the NCC's School Organisation Manager confirmed that the First School would have sufficient capacity to accommodate the predicted number of pupils likely to be generated by the scheme. I am also aware that the Highways Agency and the NCC's highway engineers did not raise any objections to the scheme, subject to a number of conditions and a TRO to prevent parking in between the proposed access road and the area around the surgery. As such there is little substantive evidence before me to conclude that

- the proposal would materially impact on highway safety or the capacity of local schools.
24. It is acknowledged that the proposal would inevitably reduce the sense of openness of the site and its relatively green character would diminish as a result of the development. Whilst open countryside bounds the eastern boundary and part of the southern perimeter, the appeal site is reasonably well contained with existing development to three sides. The proposed houses would be laid out in a similar cul-de-sac arrangement as the existing residential development to the west, and provide landscaped open space to the edges and within the site. The effect of all of these factors would be a relatively green, open layout which relates to the local pattern of existing development and retains some qualities of its spacious character. As such I do not consider that the proposal would have a harmful effect on the character and appearance of the area.
25. Local residents explained at the Hearing that their concerns regarding living conditions primarily related to the effect of the proposal on the living conditions of the occupiers of 1 The Crofts, Grange Road, in regards to overlooking and loss of privacy. Having visited this property on my site visit it was apparent that a number of habitable room windows and a conservatory would face the shared boundary of the appeal site. Due to the topography of the area, and further proposed engineering works, plots 14 and 15 would also be at a higher floor level than No 1.
26. Nevertheless, there would be a separation distance of between approximately 15 and 16 metres from the rear of these proposed dwellings and the shared boundary with No 1. The proposed house types on these plots would be of a low height, with plot 15 containing a bungalow. Furthermore, the first floor windows within the proposed dwelling on plot 14 would not directly face No 1, and would only provide views of this property from an angle. New boundary treatment, the details of which would be required to be included within a condition for a landscaping scheme, would also help screen the development. Therefore, although there would be limited overlooking of No 1, I consider that this would be within acceptable limits.
27. Issues regarding the farmer's access to the remaining farm land were also raised during the Hearing. However, there is no firm evidence before me to substantiate that an alternative access point is not available or could not be achievable in the future.

Planning Obligation

28. The appellant has submitted a Unilateral Undertaking that covenants to make financial contributions towards a TRO and the provision or enhancement of off-site sports and recreation facilities in the Borough. On-site affordable housing is also to be secured by this planning obligation.
29. The case for 30% on-site affordable housing, based on the needs of the area, has been agreed by the NCC's Housing Enabler and I am satisfied that the level of affordable housing has been justified. It therefore accords with Policy S6 of the Core Strategy and is compliant with the tests within paragraph 204 of the Framework.

30. The parties have agreed financial contributions towards off-site sport and recreation and to cover the costs of a TRO to restrict parking within the site around the area of the proposed surgery. I am content that the required financial contribution towards a TRO has been justified and that it meets the tests of the Framework.
31. The NCC's planning committee report indicates that it is reasonable and necessary to seek a financial contribution towards provision or maintenance of sport and recreation facilities in the Parish as a result of the additional dwellings that would be created. However I have not been provided with any detailed evidence to indicate the extent of any existing shortfalls or the effect the proposal would have on them. Nor has any detailed information been provided to show how the required £9,400 figure has been calculated or how and where this would be spent. No further clear explanation was provided on this matter at the Hearing. Accordingly I cannot be certain that the contributions sought for off-site sport and recreation would be necessary to make the development acceptable, be directly related to the development and fairly related in scale and kind. I have therefore taken no account of this in reaching my decision.

Conditions

32. I have considered the conditions suggested by the NCC against advice in the Planning Practice Guidance: *Use of planning conditions*. I agree that a condition is needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. In the interests of the character and appearance of the surrounding area it is also considered necessary to attach a condition to ensure that samples of the materials to be used on the buildings are submitted for the local planning authority's approval. Conditions requiring the provision of schemes for hard and soft landscaping, surface water drainage works, foul flow waters, contamination and a construction method statements, energy conservation, the maintenance and management of open spaces, and for the an updated Travel Plan are also considered to be necessary for the reasons put forward by the NCC.
33. Given the difference in levels and the relationship between the proposed dwellings on plots 14 and 15 and the existing bungalow at No 1 I am also satisfied that the removal of permitted development rights for these dwellings is reasonable and necessary to protect the living conditions of existing neighbouring residents. However I do not consider there to be such exceptional circumstances in this case for a condition to restrict the use of the business unit premises to Class B1 of the Use Class Order to be necessary. Equally, given the spacious layout and amount of off-street car parking available on the driveways of dwellings with garages I also do not consider the removal of permitted development rights for their conversion to living accommodation to be necessary in this instance.
34. Along with conditions restricting existing field access points and vehicular access for agricultural land, and the construction details and gradients of driveways, turning areas, footpaths and highways I consider the widening and resurfacing of the footway along the frontage of the site to be reasonable and necessary in the interests of highway safety. However at the Hearing the appellant questioned the reasonableness and necessity of conditions 11 and 12 which relate to the relocation and upgrading of the bus stops and the provision

of a Zebra Crossing on Grange Road. I saw on my site visit that the bus stops are in good condition, one of which is a stone built shelter, are clearly marked out and have raised kerbing and tapers. Whilst I appreciate that there would be an increase in pedestrian and vehicular activity as a result of the proposed development there is little substantive evidence before me to justify that the size and scale of the development is so substantial, or that highway safety would be harmed to such a degree as to require the provision of a zebra crossing. I therefore do not consider conditions 11 and 12 to be reasonable or necessary.

35. The planning obligation already restricts car parking around the surgery and this is not required to be duplicated. However the requirement for a system of guard rails between the junction with Grange Road and beyond the car park entrance of the surgery can be added to the details that are required to be incorporated in the fully dimensioned layout plan. I have therefore replaced condition 17 with condition 11.
36. Finally, I note that in addition to condition 6, condition 20 also seeks a surface water disposal scheme. This also does not need to be duplicated and I have therefore deleted it.
37. For the reasons given above and having regard to all other matters raised, I therefore conclude that this appeal should be allowed.

Mark Caine

INSPECTOR

SCHEDULE OF 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:
 - TNE - 203 10-SD02 L - Masterplan as Proposed
 - 203 - TNE 30-SD01 - House Type SB01 Proposed Floor Plans
 - 203 - TNE 30-SD02 - House Type SB01 Proposed Elevations
 - 203 - TNE 30-SD03 - House Type SB02 Proposed Floor Plans
 - 203 - TNE 30-SD04 - House Type SB02 Proposed Elevations
 - 203 - TNE 30-SD05 - House Type SB03 Proposed Floor Plans
 - 203 - TNE 30-SD06 - House Type SB03 Proposed Elevations
 - 203 - TNE 30-SD07 - House Type SB04 Proposed Floor Plans
 - 203 - TNE 30-SD08 - House Type SB04 Proposed Elevations
 - 203 - TNE 30-SD09 - House Type SB05 Proposed Floor Plans & Elevations
 - 203 - TNE 30-SD10 - House Type SB06 Proposed Floor Plans
 - 203 - TNE 30-SD11 - House Type SB06 Proposed Elevations
 - 203 - TNE 30-SD12 - House Type SB07 Proposed Floor Plans
 - 203 - TNE 30-SD13 - House Type SB07 Proposed Elevations
 - 203 - TNE 30-SD14 - House Type SBA2 Proposed Floor Plans & Elevations

- 203 - TNE 30-SD15 - House Type SBA3 Proposed Floor Plans & Elevations
203 - TNE 30-SD16 - Proposed Garage Plans and Elevations
TNE - 203 40-SD01 B - Proposed Site Sections Sheet 01
TNE - 203 40-SD02 B - Proposed Site Sections Sheet 02
TNE - 203 40-SD03 A - Proposed Site Sections Sheet 03
203 - TNE 50-SD01 E - Proposed Surgery Ground Floor Plan
203 - TNE 50-SD02 B - Proposed Surgery Elevations
90290/2002 A - Proposed Plot Levels
- 3) No development 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.
- 4) Prior to the commencement of any development a detailed landscaping scheme showing both hard and soft landscaping proposals shall be submitted to, and approved in writing by, the local planning authority. This shall include, where required, the planting of trees and shrubs including provenance and details of all retained trees and hedgerows; a planting schedule setting out species; numbers, densities and locations; the provision of screen walls and fences; the mounding of earth; the creation of areas of hardstanding, pathways etc; areas to be seeded with grass and other works or proposals for improving the appearance of the development. The scheme shall be carried out in accordance with the approved drawings not later than the expiry of the next planting season following commencement of the development. The landscaped areas shall be subsequently maintained to ensure establishment of the approved scheme including watering, weeding and the replacement of any trees, plants or areas of seeding or turfing comprised in the approved landscaping plans, which die or fail within 5 years from the completion of the development.
- 5) No building hereby permitted 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 information on the proposed swale and check dams, including drawings, precise locations, sizing and calculations. The scheme shall ensure that discharge of surface water shall connect to manhole 7604 with a maximum discharge rate of 5 litres/second/hectare. The submitted details shall:
- i. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. Include a timetable for its implementation; and
 - iii. Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) If during development contamination not previously considered, is identified, then a Method Statement regarding material shall be

- submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the Method Statement has been submitted to and approved in writing by the local planning authority, and measures proposed to deal with the contamination have been carried out.
- 7) No development shall commence until a detailed scheme for the treatment of the foul flows from the development hereby approved has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. No dwelling hereby permitted shall be occupied until the foul water drainage scheme has been fully implemented in accordance with the approved details. The scheme shall thereafter be operated and maintained in perpetuity in accordance with the approved details.
 - 8) No development shall be carried out 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 and shall provide for: 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; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities; measures to control the emissions of dust and dirt during construction and a scheme for recycling/disposing of waste resulting from any demolition or construction works.
 - 9) Before any development commences a scheme of energy conservation for the dwellings hereby approved shall be submitted to, and approved in writing by, the local planning authority. The scheme shall incorporate energy efficiency measures and/or proposals for on-site renewable energy generation which shall source a minimum of 20% of their energy requirement, including details of any physical works. The dwellings shall not be brought into use until the agreed energy efficiency/renewable energy generation measures have been implemented in accordance with the approved details and shall be retained at all times thereafter.
 - 10) No development shall take place until a scheme to widen and resurface the footway along the frontage of the site, extending eastward to link in with the bus stop to the north east corner of the site, including drop kerb crossing areas on Grange Road, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details, and completed prior to the occupation of the 10th dwelling.
 - 11) The development hereby approved shall be completed in strict accordance with a fully dimensioned layout plan incorporating road drainage, street lighting and landscaping, together with longitudinal sections of the new roads and improved public right of way, including details of the construction of the carriageway, accesses and system of guard rails between the junction with Grange Road and beyond the car

- park entrance of the surgery which first shall have been submitted to and approved in writing by the Local Planning Authority.
- 12) The proposed roads including footpaths and turning spaces, shall be constructed as to ensure that each dwelling, before it is occupied, shall be served by a properly consolidated and surfaced carriageway and footpath to at least binder course level, together with operational street lighting, between the dwelling and the existing highway. All manhole covers and gully frames shall be set to the level of the temporary running surface until immediately prior to the laying of the final wearing course.
 - 13) The gradient of the estate road shall be no steeper than 1 in 10. The gradient of the proposed private drive(s) shall be no steeper than 1 in 12 and shall be constructed in non-granular material, in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the driveways shall be fully constructed in accordance with the approved details prior to the dwelling which they serve being occupied.
 - 14) The development hereby approved shall not be brought into use unless a revised Travel Plan document has been submitted to and approved in writing by the Local Planning Authority. The document shall include measures to be implemented, reports, monitoring and review mechanisms. Thereafter, any requirements of the Travel Plan shall be implemented in accordance with the approved details, within the specified timescales.
 - 15) There shall be no means of vehicular access through the new development for agricultural vehicles to adjacent fields to the south.
 - 16) Before any residential or commercial unit is brought into use on the site, the existing field accesses to the site rendered redundant by the development shall be permanently closed with kerbing and footway areas reinstated.
 - 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other external alteration to the dwelling houses on plots 14 and 15 hereby permitted shall be carried out.
 - 18) No development shall take place until a scheme for the laying out and future maintenance of the open space areas shown in "TNE - 203 10-SD02 L - Masterplan as Proposed" has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of any building and shall be retained at all times thereafter.

APPEARANCES

FOR THE APPELLANT:

Colin Barnes	The Northumberland Estates
Steve Dickie	Fairhurst

FOR THE LOCAL PLANNING AUTHORITY:

Neil Armstrong BA (Hons) DIPTP MRTPI	Northumberland County Council
James Hitching	Northumberland County Council
Linda Vernon	Northumberland County Council

SHILBOTTLE PARISH COUNCIL:

Cllr Elisabeth Haddow	Parish Councillor
Cllr Paul Burns	Parish Councillor
Cllr Celia Lewis	Parish Councillor
Cllr T.W. Scott	Parish Councillor

INTERESTED PERSONS:

Richard A Law	Local resident
Linda Law	Local resident
Shiela Roberston	Local resident
Cllr Trevor Thorne	County Councillor

DOCUMENTS AT THE HEARING

1. Shilbottle Future Development Options Study Planning Report (2010)
2. Email dated 4 November 2014 providing update from NWL regarding the upgrading of the STW.
3. Council's response to application for costs.