



Appeal Decision

Site visit made on 21 September 2020

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2020

Appeal Ref: APP/P2935/W/20/3248070

Land North of Lesbury, Alnwick Road, Lesbury, Northumberland Grid Ref Easting: 423588 Northing: 611921

- 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 Guy Munden, Northumberland Estates against the decision of Northumberland County Council.
 - The application Ref 18/04527/OUT, dated 21 December 2018, was refused by notice dated 17 January 2020.
 - The development proposed was originally described as 'Outline planning application for the development of approximately 41 dwellings including access, open space, SuDS and associated infrastructure with all matters reserved except for access'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but nevertheless, a different wording has been entered. During the Council's consideration of the application, the scheme was changed to include provision for 50% affordable housing. The Council dealt with the application on that basis and so shall I.
3. The application is in outline with all matters reserved except for access. An illustrative proposed site plan, proposed colour layout and landscape proposals plan were submitted. I have regard to these plans solely on an illustrative basis in respect of the reserved matters.
4. A signed and dated planning obligation under Section 106 of the Town and Country Planning Act 1990 (S106) has been provided as part of this appeal. It includes obligations relating to affordable housing, contributions to the Coastal Mitigation Scheme, and to health and education provision.
5. A neighbourhood plan is being prepared for the Lesbury Parish Neighbourhood Area, The Lesbury Neighbourhood Plan 2019 – 2036 (LNP). On 11 July 2020, Northumberland County Council issued a Regulation 18 Decision Statement in respect of the LNP. The statement says that the Council considers that the Plan, as modified, meets the basic conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and that the Plan complies with provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004, and that the Plan may proceed to

referendum. The appellant was given the opportunity to comment on the implications of the Regulation 18 Decision Statement for their case and I have had regard to the comments received in determining the appeal.

Main Issues

6. The Council refused the application for four reasons, including reason 4 which concerned the lack of a completed S106 Agreement to secure affordable housing and contributions to primary healthcare and ecological coastal mitigation. The Council has confirmed that the completion of the S106 Agreement has overcome this reason for refusal. From the remaining reasons for refusal and having regard to the comments of interested parties and the issuing of the Regulation 18 Statement by the Council, I have identified the following main issues for the appeal:

- Whether the proposed dwellings would be in a suitable location having regard to policies for housing development in the countryside;
- Whether granting planning permission would undermine the plan making process for the LNP; and
- The effect of the appeal scheme on the character and appearance of the area with regard to the setting of the Northumberland Coast Area of Outstanding Natural Beauty (AONB) and the landscape character of the area.

Reasons

Housing development in the countryside

7. The development plan consists of the saved policies of the Alnwick District Local Plan 1997 (ALP) and the Alnwick Core Strategy 2007 (CS). These Plans were each adopted a number of years before the publication of the National Planning Policy Framework (the Framework) in 2012 and the subsequent amendments to the Framework.
8. Paragraph 213 of the Framework clearly sets out that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
9. The CS sets the broad locational strategy for delivering housing and other development through the operation of a number of Policies. CS Policy S1 is concerned with the location and scale of new development. Together, Lesbury, Hipsburn, Bilton and Alnmouth are defined as a Sustainable Village Centre, where development will be well-related to the scale and function of the settlement. The appeal site is situated on the edge of Lesbury in an accessible location. I find no conflict with this policy, which is broadly consistent with the Framework.
10. CS Policy S2 sets a sequential approach to development, prioritising development of previously developed land and buildings in urban areas, with the development of other suitable sites adjoining sustainable village centres

being the final priority category in the sequence. This policy reflected the approach taken in the former Regional Spatial Strategy for the North East and former national planning policy. I agree with the main parties that the sequential approach in relation to previously developed land as set out in CS Policy S2 is not consistent with current national planning policy as set out in the Framework. The Council did not find conflict with this policy nor provide evidence in that regard and I agree I should afford minimal weight to any conflict with this Policy due to its inconsistency with the Framework. Consequently, in the context of paragraph 213 of the Framework, I find CS Policy S2 to be out of date. CS Policy S3 sets out sustainability criteria, which should be met in granting planning permission. This Policy is broadly consistent with the Framework.

11. The appeal site consists largely of agricultural land adjoining, but outside of the built-up area of Lesbury. Whilst the site adjoins a designated sustainable village centre, it is nevertheless in the countryside and CS Policy S14 is relevant. CS Policy S14 includes, amongst other things, that new development in the open countryside will only be permitted where the development is likely to be sustainable in the context of CS Policy S3 and where the development is essential to support farming and other countryside-based enterprise and activity, promote recreation and supports the retention of sustainable communities or supports the conservation and enhancement of the countryside. It also includes requirements for an applicant to demonstrate that they have carried out the sequential test in CS Policy S2, and concerning the development of the best and most versatile agricultural land.
12. The Council argues conflict with CS Policy S14 on the basis that the appeal scheme is not essential to support farming and other countryside-based enterprise and activity, and fails to support the conservation and enhancement of the countryside. I agree with the Council that the sequential test approach in CS Policy S14 is not supported by the Framework. Furthermore, the Policy is not consistent with national policy for rural housing as set out in paragraphs 77, 78 and 79 of the Framework in that the exceptional circumstances set out for development in the open countryside by CS Policy S14 are more restrictive. I therefore consider it to be out of date. In the interests of consistency, I have sought the views of the main parties on a number of appeal decisions¹ where CS Policy S14 was relevant. I have had regard to the comments made.
13. Whilst the appeal proposal does not conflict with the sustainability criteria set out in CS Policy S3, it nevertheless does not fall within one of the development types listed for the countryside in CS Policy S14. I have had regard to the appellants argument that the policy should be read flexibly and that the appeal scheme would support the retention of sustainable communities. However, CS Policy S1 and its explanatory text are clear that development in the countryside is generally limited to the reuse of existing buildings and otherwise new development should be resisted. There is also no demonstration that the sequential test set out in CS Policy S2 has been met, but as the Policy is out of date, I apply minimal weight to this conflict. I find no harm in respect of the loss of best and most versatile agricultural land as a result of the proposal.

¹ APP/P2935/W/19/3244395, APP/P2935/W/19/3242847, APP/P2935/W/20/3246042

14. I find that whilst the appeal proposal accords with CS Policies S1 and S3, it is in conflict with CS Policies S2 and S14. I shall return to the weight to be given to this conflict in undertaking the planning balance.

Emerging policies

15. Although the Council has issued its Regulation 18 Decision Statement in respect of the emerging LNP, a referendum cannot be held until 6 May 2021 due to measures introduced in response to the coronavirus pandemic². In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) I have regard to the emerging LNP in so far as it is material to the appeal. Furthermore, the Planning Practice Guidance (PPG)³ states where the local planning authority has issued a decision statement detailing its intention to send a neighbourhood plan to referendum, that plan can be given significant weight in decision-making, so far as the plan is material to the application.
16. The examination of the Northumberland Local Plan (emerging NLP) is ongoing. In the emerging NLP, Lesbury/Hipsburn/Bilton/Alnmouth are identified as a Service Village in the settlement hierarchy. No settlement boundary is proposed for Lesbury in the emerging NLP, as that is intended to be defined through the neighbourhood planning process. Amongst other things, Service Villages will provide for a proportionate level of housing and be the focus for investment in rural areas, with sustainable development being supported within defined settlement limits. The Council in their evidence also refer to emerging NLP Policy HOU 8 which is concerned with housing in the open countryside. The appeal scheme does not accord with emerging Policy HOU 8. Given the point reached in the examination of the NLP and that there are unresolved objections, I afford its policies minimal weight.
17. The LNP defines a settlement boundary, drawn around the existing built up area of Lesbury, with the land falling outside considered as being countryside as per LNP Policy 1. The LNP identifies a shortfall of 7 dwellings from the minimum required in the emerging NLP for the period to 2036, with the settlement boundary being drawn accordingly. It is envisaged in the LNP that the remaining dwelling requirement will be met through windfall development and provision of affordable and social housing to meet local need. The appeal scheme extends into the countryside and due to its scale, nature and location does not accord with the emerging LNP.
18. To conclude on this matter, whilst the appeal proposal accords with CS Policies S1 and S3, I find conflict with CS Policy S14. Given the inconsistency with parts of CS Policy S14 with national policy, I afford moderate weight to that conflict and minimal weight to the identified conflict with CS Policy S2. I nevertheless find that the appeal proposal through the conflict with CS Policy S14 conflicts with the broad locational strategy set out in the CS. I also find conflict with the emerging LNP which I afford significant weight and the emerging NLP, which I afford minimal weight. Overall, I find that the appeal proposal would not be in a suitable location having regard to policies for housing development in the countryside.

² Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 until 6 May 2021.

³ Paragraph: 107 Reference ID: 41-107-20200513

Whether granting planning permission would undermine the plan making process for the Lesbury Neighbourhood Plan

19. The Framework sets out in paragraph 49 that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both: a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. In paragraph 50 the Framework includes that where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.
20. In this case the LNP is now at an advanced stage, with it having been subject to independent examination and the Council having issued a Regulation 18 decision statement, meaning that the LNP may proceed to referendum. Whilst the Council did not refuse the application on the grounds of prematurity, the matter has been raised by interested parties and there has been a change in circumstance in regards to the emerging LNP since the application was determined by the Council with the publication of the Examiners Report and the Regulation 18 Decision Statement.
21. The dwelling requirement for the neighbourhood plan area is to be determined by the NLP. This plan is at examination and there are outstanding objections in this regard. The NLP proposes a minimum requirement of 45 dwellings for the neighbourhood planning area over the plan period. The LNP sets out that the proposed requirement has largely been met, with there being a shortfall of 7 units over the period to 2036 and that the settlement boundary for Lesbury in the LNP accommodates enough land for the requirement to be met. The appeal proposal is for approximately 41 dwellings outside of the settlement boundary defined in the emerging LNP. Whilst the Framework is clear that strategic policies should determine the minimum number of homes needed, in the context of the LNP, the appeal proposal is substantial, being almost equal to the dwelling requirement for the neighbourhood plan area proposed in the emerging NLP, the basis upon which the LNP has been prepared.
22. A grant of permission at this time, in advance of the referendum on the LNP, would predetermine decisions about the scale and location of new development and undermine the plan making process of the LNP, especially given that the scale and location of the development proposed through the appeal scheme is not envisaged in the LNP. This would be counter to the benefits for the local community in developing a neighbourhood plan and undermine the neighbourhood plan process where a community can set out a positive vision for how they want their community to develop.
23. I have had regard to the appellants comments concerning the suitability of the appeal site for residential development, its environmental value and environmental effects, and provision of affordable housing. However, I nevertheless consider that the proposal is so substantial in the context of the LNP that to grant permission would undermine the plan-making process. I have also taken into account the submissions regarding the potential for legal

challenge to the LNP. I have not been made aware though of any such legal challenge having been made or decision issued by the Courts and have formed my view on the evidence before me.

24. To conclude on this matter, to grant permission for the appeal proposal would in the context of the Framework, undermine the plan making process by determining decisions about the scale and location of new development in Lesbury, where the LNP is at an advanced stage, but not formally part of the development plan for the area.

Character and appearance

25. The irregularly shaped appeal site is situated to the north of Lesbury. It is formed from a number of fields, bounded by hedgerows, fencing and scattered trees and I saw at my site visit, it was in use for agricultural purposes and the grazing of horses. The appeal site also extends south along School Lane to provide pedestrian access to the centre of the village. The immediate context of the site is provided by the village, with St Marys Church, graveyard, former vicarage and village hall to the south, modern development, the Lealands to the west, with agricultural land to the north. To the east of the site are situated dwellings on Longhoughton Road. These are typically large detached dwellings situated in large plots, with some variety in design. I saw at my site visit that there are several modern developments to the east of Longhoughton Road, one of which, near the proposed site access, was under construction.
26. The appellant's Lesbury Landscape and Visual Appraisal (LVA) identifies that the appeal site is within National Landscape Character Area (NCA) 01: North Northumberland Coastal Plain. The key landscape characteristics include the River Aln, the farmed landscape of predominantly large, open arable fields and permanent pasture, with some remnant semi-natural grassland in the valleys and coastal fringes, and dispersed pattern of isolated large-scale farmsteads, small nucleated villages, fishing villages and small coastal resort towns.
27. In terms of local landscape character as outlined in the Northumberland Landscape Character Assessment Part A Landscape Classification (2010), the site falls within Landscape Character Type 2: Coastal Incised Valley, with the relevant character area being 2a Lower Aln. The key characteristics identified for the area include shallow valleys cutting through coastal plain, with meandering rivers, it being more sheltered than the surrounding coastal plain with restricted views, arable farming, with pasture and woodland in steeper areas and villages and larger settlements, as well as farmsteads and cottages. The Northumberland Landscape Character Assessment Part B The Changing Landscape (2010) identifies meandering rivers with wooded sides and flat pastoral haughs as key qualities. Modern development on settlement edges, which may not reflect the local vernacular or existing settlement edges and patterns, leading to increased urban fringe, and loss of cohesiveness of settlement character are identified as a force for change.
28. In visual terms, the appeal scheme would lead to an extension of the village to the north along Longhoughton Road, where although it would be read along with the existing development, it would be seen as an extension of the built up area into the countryside. This is similarly the case in respect of views from School Lane. The appeal scheme would also be seen in some views from the north and west towards Lesbury.

29. The Northumberland Coast AONB is situated to the east of the appeal site across Longhoughton Road. In determining this appeal, I have regard to the duty imposed on me by Section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act).
30. I saw at my site visit that the landscape generally rises to the north and that the structures at RAF Boulmer are particularly prominent. I have had regard to the comments that the Northumberland Coast AONB Landscape Sensitivity & Capacity Study, (AONB LSCS) identifies an important gap in the landscape between the edge of the village and RAF Boulmer, within which the appeal site is situated. I agree that the gap has some significance, but consider that a suitably designed scheme at reserved matters stage could, with the creation of a strong settlement edge, give rise to limited harm in this regard.
31. I concur with the findings of the Council's Landscape Statement, that as intervisibility with the AONB is restricted, the potential for harm to the special qualities of the AONB are also limited. The issue of potential light intrusion arising from the appeal scheme could be addressed by way of a planning condition, should I allow the appeal. Consequently, the appeal proposal should not give rise to appreciable harm to the special qualities of the AONB.
32. The Council in its reason for refusal states that the proposal fails to protect and enhance the valued landscape in which it sits and is contrary to paragraph 170 of the Framework. Policy in paragraph 170 seeks to protect and enhance 'valued landscapes' in a manner commensurate with their statutory status or identified quality in the development plan. The Framework does not define 'valued landscapes' and in terms of paragraph 170, the appeal site is not subject to any statutory or local landscape designation, nor is it identified within the development plan for its particular landscape quality. It is however noted in the AONB LSCS as being part of an important gap. Having considered carefully the evidence, I am of the opinion that as a greenfield site in the countryside, the appeal site has value both in its own right and as part of the wider landscape close to the AONB. However, this does not necessarily mean that it is a valued landscape in the context of the Framework.
33. From all that I have read and have seen, I am not convinced that the appeal site is so special or has features of particularly special worth to conclude that it should be regarded as being a valued landscape in terms of the Framework. That said, the Framework in paragraph 170 also sets out that decisions should recognise the intrinsic character and beauty of the countryside.
34. The appeal scheme would give rise to the loss of the pattern of small fields close to the village which would cause some harm to its character. In terms of scale, it would be a significant extension of the village. The settlement edge would change as a consequence of the development, though the mitigation of such effects of change would be a matter for a reserved matters application. The visual effects of change would principally be limited to nearby receptors within and around the village, due to the containing effects of the landscape. The appeal proposal would give rise to moderate harm to the character and appearance of the area, which could reduce to minor harm over time as a result of site design and landscaping.
35. CS Policy S13 is concerned with landscape character and includes that all proposals for development will be considered against the need to protect and enhance the distinctive landscape character. This is not inconsistent with the

aim of national policy to recognise the intrinsic beauty and character of the countryside as set out in paragraph 170 of the Framework. Whilst I have found that the appeal proposal could give rise to minor harm to the character and appearance of the area, I do not find that such harm would give rise to conflict with CS Policy S13. Given my findings on this matter and that the appeal proposal is outside of the AONB, I do not find conflict with saved Policy RE16 of the ALP, which is concerned with development affecting the AONB or Heritage Coast. Saved Policy RE16 is inconsistent with the Framework as it relates to all development affecting the AONB, rather than major development and is not consistent with the public interest test set out in paragraph 172. I do not consider that the appeal scheme conflicts with paragraphs 170 and 172 of the Framework.

Planning obligations

36. The completed S106 agreement contains obligations in respect of the provision of 50% affordable housing; off-site ecological mitigation and a financial contribution for the provision of mitigation services including warden provision and associated activity to mitigate the impact of recreational activity on designated sites on the coast of Northumberland, and financial contributions towards secondary school education in the Lesbury area and increasing primary healthcare infrastructure capacity serving the development. The planning obligations contained in the S106 agreement are conditional on being found compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regs).
37. I have considered the obligations against the tests set out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations; namely that they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
38. The appeal proposal is for a development of approximately 41 dwellings of which 50% would be affordable. The S106 agreement includes planning obligations to secure the provision of the affordable homes and to ensure that they would remain so.
39. CS Policy S6 is concerned with the provision of affordable housing and requires an appropriate element of affordable housing within the site where a need exists. CS Policy S6 set a 35% contribution for affordable housing for the period 2005 to 2010. That part of the policy is time expired and there is no applicable policy target. In addition, the Policy does not reflect the current definition of affordable housing as set out in the Framework. CS Policy S6 is therefore out of date in terms of the Framework.
40. The main parties have referred me to the Council's Partial SHMA Update 2018 which identifies a shortfall in the provision of affordable housing between 2017/18 and 2021/22 of 151 dwellings per annum in the County. The appeal scheme would contribute towards addressing this shortfall which is a significant and immediate need.
41. The consultation response from the Council's Housing Enabling Officer sets out that there were 9 applicants for affordable housing specifically from Hipsburn, Alnmouth and Lesbury. Demand for affordable housing advertised in the area however had been high, with 5 properties advertised with 132 bids made. The

Council's housing enabling team supported the scheme delivering 7 affordable units, subject to a suitable housing mix.

42. Whilst there is considerable unmet affordable housing need in Northumberland and high demand for the properties advertised in the local area, the evidence does not point to the need for 50% affordable housing to be provided from the appeal scheme. Consequently, I do not find the provision of 50% affordable housing secured through the planning obligation as being fairly and reasonably related in scale and kind to the development.
43. I agree that the provision of affordable housing could be a significant benefit of the scheme, of which it is an integral part. However, unacceptable development should not be accepted because unnecessary benefits have been offered by the appellant. As it does not satisfy the tests set out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations, I shall not take it into account. For the purposes of the planning and historic heritage balances however, I shall take into account that were I minded to allow the appeal, I would have sought an amended planning obligation to provide for a contribution for 7 affordable units as per the findings of the SHMA.
44. In addition, having considered the evidence before me, including relevant consultation responses and policy requirements, I am satisfied that the tests set out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations are met in that the obligations relating to ecological mitigation, education and health contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. I therefore take these planning obligations into account as material planning considerations.

Other matters

Historic environment

45. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special regard shall be had to the desirability of preserving listed buildings or their setting. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions. Paragraph 132 of the Framework sets out that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of significance of a designated heritage asset including from development within its setting, should require clear and convincing justification. The Framework in paragraph 196 requires that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits.
46. The Lesbury Conservation Area includes much of the historic core of the village and a length of the River Aln. The Lesbury Conservation Area derives its significance from the historic interest of the settlement and the architectural quality of a number of its buildings. The character of the Conservation Area is that of a small village, now largely residential, with a range of community facilities. In terms of its appearance, there is some variety in the scale and form of buildings, including areas of tight knit dwellings such as at the Square, and larger buildings including St Mary's Church and The Old Vicarage. Whilst

the larger part of the appeal site is to the north of the Conservation Area, the appeal site boundary is in part drawn along School Lane to the B1339 and therefore a small part of the site area falls within the Conservation Area. This is to provide pedestrian access for the scheme direct to the centre of the village.

47. The Church of St Mary is a grade II* listed building and is situated to the east of School Lane. The Church is thought to have a 12th century core with various later works. The Church is a landmark building within the centre of the village and Conservation Area. The significance of the listed building mainly derives from its architectural interest and historical importance, as noted in its listing description, and its relationship with the village and surrounding area. There are three grade II listed headstones situated in the churchyard between the Church and the B1339 which derive their significance from their historic interest. Immediately to the north of the Church tower is situated the grade II listed Herdman Vault, which derives its significance from its historic and architectural interest.
48. Opposite the Church, across School Lane is the grade II listed Village Hall, which was formerly the village school, and the grade II listed front wall and gate piers. To the east of the Church is situated the grade II listed Old Vicarage, along with the separately listed wall and gate piers, and stables and yard. Further east is situated the grade II listed 18th century Woodbine Cottage. These designated heritage assets derive their significance from their historic and architectural interest as noted in the listing descriptions.
49. The appeal proposal would introduce built development to the north of the Conservation Area and the listed buildings in an area which is presently undeveloped. Whilst layout, appearance, scale and landscaping are reserved matters, the shape of the appeal site is such that built development would be situated some distance away from the designated heritage assets. As I saw at my site visit, there would be some intervisibility of the proposed development and St Marys Church, the Herdman Vault and the Village Hall, together with the Conservation Area, from School Lane, where the designated heritage assets can be experienced. The development would therefore alter the settings of these heritage assets, diminishing their relationship with the countryside surrounding the village. An increase in pedestrian use of School Lane would not however have an adverse effect on the character of the Conservation Area. The effect of the appeal scheme would therefore be less than substantial on the significance of the heritage assets and I attach considerable importance and weight to the harm, even though it would not be significant in terms of CS Policy S3.
50. I turn now to the weighing of this harm against the public benefits of the proposal. The appeal proposal would bring forward approximately 41 dwellings, including affordable housing. Whilst it is not disputed that the Council can demonstrate a supply of housing clearly in excess of the minimum five years worth of housing as required in national policy, the appeal scheme would support the Government objective of significantly boosting the supply of homes and help to provide choice. The provision of affordable housing is a significant benefit given the shortfall in the provision of affordable housing. In this regard I have taken into account the appeal decision cited by the appellant⁴.

⁴ APP/X0360/W/15/3097721

51. The appeal scheme would provide employment during construction and I have regard to the appellants comments that it would support the employment of 127 people, an apprentice, and fiscal benefits to the Council in terms of Council Tax and New Homes Bonus. I have taken into account the possible increase in spending on local services and shops stated to be £196,800 on convenience goods and £328,000 on comparison goods. The appellant suggests that there would be some environmental benefits arising from the scheme. Whilst I take these into account, as the proposal is in outline other than access, the full extent of any such benefits beyond the mitigation of harm is not known.
52. The appeal proposal would give rise to less than substantial harm to the significance of a number of designated heritage assets. The extent of this harm is minor and whilst I have attached considerable importance and weight to this harm, it is outweighed by the benefits of the scheme.

Habitats Regulations Assessment.

53. The appeal site is situated about 940 metres from the North Northumberland Dunes Special Area of Conservation (SAC) which is designated for Annex 1 dune habitats. It is also about 2.1 kilometres from the Northumberland Coast Special Protection Area (SPA), Ramsar and Site of Special Scientific Interest (SSSI). In terms of qualifying features, the SPA and Ramsar support internationally important populations of breeding arctic tern and little tern. There are two species of wintering waterfowl which occur on the Northumbria Coast in internationally important numbers; purple sandpiper and turnstone. The SSSI is noted for sanderling; golden plover; ringed plover and redshank. In addition, it is near the Northumberland Marine SPA, the qualifying features of which include internationally important species of breeding birds, including a number of Annex 1 species and an internationally important seabird assemblage.
54. The appellants ecological assessment concludes that the proposed development has the potential to impact upon the habitats sites through residents using coastal areas for recreational activities, including walking and dog walking. Natural England (NE) in their consultation response has stated that without appropriate mitigation, the application would have an adverse effect on the integrity of the Northumberland Marine SPA, the Northumbria Coast SPA and Ramsar site, and the North Northumberland Dunes SAC. NE also considers that it would give rise to harm to the interest features for which Alnmouth Saltmarsh and Dunes SSSI and Northumberland Shore SSSI have been notified. NE does not however object to the appeal scheme subject to appropriate mitigation being secured. The S106 agreement includes provisions for mitigation which are consistent with the Class Habitats Regulations Assessment as agreed between the Council and NE.
55. However, as I am dismissing the appeal for other reasons, I shall not consider the implications of the appeal for European sites under the Habitats Regulations further.

Planning balance and conclusion

56. I have found conflict with CS Policy S14. CS Policy S14 is a key policy in the plan concerning development of housing in the countryside. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with

- s.38(6) of the Planning and Compulsory Purchase Act 2004. Due to the degree of inconsistency identified with the Framework, I afford any conflict with the policy moderate weight.
57. I have found that the proposed dwellings would not be in a suitable location having regard to policies for housing development in the countryside and that the grant of planning permission would undermine the plan making process for the LNP. Whilst the appeal proposal does not conflict with CS Policies S1 and S3, I find conflict with CS Policies S2 and S14. I afford minimal weight to the conflict with CS Policy S2. I also find conflict with the emerging LNP which I afford significant weight, and the emerging NLP which I afford minimal weight.
58. Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 d) sets out that for decision making this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. I have found that the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed.
59. I must make an assessment as to whether the most important policies for determining the appeal are out of date, in accordance with Paragraph 11(d) of the Framework and having regard to the Wavendon judgement⁵.
60. The main parties have referred to a number of development plan policies to which I have had regard. I find that the most important Policies for determining the appeal are CS Policies S1, S2, S3, S6, S13 and S14 and ALP Policy RE16. CS Policies S2, S6 and S14 and ALP Policy RE16 are out of date. CS Policies S1, S3 and S13 are not out of date. When taken as a whole, it is my judgement that the most important policies for determining the appeal are out of date. Therefore, Paragraph 11(d) of the Framework, is engaged.
61. In terms of paragraph 11 d) ii of the Framework, I find that the grant of planning permission would undermine the plan-making process of the LNP given the scale and location of development, and that the LNP is at an advanced stage in its preparation. This harm significantly and demonstrably outweighs the benefits of the appeal scheme as previously outlined, when assessed against the policies in the Framework taken as a whole.
62. In conclusion, the appeal scheme conflicts with policy for housing development in the countryside and would undermine the plan-making process of the LNP. The benefits of the scheme do not outweigh the harm found or the policy conflict. Therefore, the appeal should fail.

Philip Lewis

INSPECTOR

⁵ Wavendon Properties Limited v SSHCLG & Milton Keynes Council [2019] EWHC 1524 (Admin)