



Appeal Decision

Site visit made on 19 April 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2022

Appeal Ref: APP/X1355/W/22/3292599

Land at Green Lane, Spennymoor DL16 6NN

- 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 Mandale Homes against the decision of Durham County Council.
 - The application Ref DM/21/02619/OUT, dated 16 July 2021, was refused by notice dated 16 December 2021.
 - The development proposed is described as "residential development of up to 20no. dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application to which this appeal relates was made in outline with details relating to access also submitted. Matters relating to appearance, landscaping, layout and scale are reserved and as such are not determined as part of this appeal.
3. The appellant has submitted a layout plan identified as being indicative. Illustrative or indicative plans show how the site might be developed only, because the plans show details of matters which are clearly reserved for future consideration, I have therefore referred these plans solely on the basis that they have been submitted for illustrative or indicative purposes.
4. I note that in the course of determining the application, the description of development was revised, reducing the number of dwellings proposed for the site from 22 to 20. I have determined the appeal on this basis.

Main Issue

5. The main issues are (i) the effect of the proposed development on the character and appearance of the area and (ii) whether or not appropriate provision is made for the provision of Open Space and Affordable Housing.

Reasons

Character and Appearance

6. The appeal site consists of a narrow agricultural field located between the new housing development on Eve Lane/Hay Lane and the A688 road. I saw at the site visit that existing trees and hedges bind the site, creating an attractive buffer to the busy road beyond.

7. The decision notice refers to Policies 6, 29, 39 and 40 of the County Durham Plan (CDP) and part 12 of the National Planning Framework, amongst other matters, the policies seek that new development contributes positively to an area's character, mitigates landscape harm and retains trees. Policy 6 is of particular relevance and sets out specific criteria that sites, such as the appeal site, must satisfy. The Officer's report refers specifically to criteria b, c, d and f.
8. I saw at the site visit that the appeal site, being located between the properties on Eve/Hay Lane and the A688 represents a logical site for housing infilling an existing gap up to the clearly defined A688 road.
9. The submitted ecological report¹ and consultation response from the Council's Ecology Team does not identify the appeal site as being of particular ecological value and I note that, save for the creation of the proposed access, existing trees and hedges are shown on the submitted plans as being retained. Furthermore, I am satisfied that a suitably worded condition and subsequent details at the appropriate reserved matters stage could require appropriate ecological mitigation and enhancements.
10. The appeal scheme is shown on the illustrative layout plan² as a simple layout of 20 residential dwellings with some planting to the boundary of the site with the A688 and additional open space to complement the existing grassed areas on Eve/Hay Lane.
11. The housing shown on the illustrative plan appears to be very compact, more so than the adjacent new housing estate, such that it appears that the appellant has sought to maximise the amount of housing on the site rather than creating an optimal and balanced development. As such the illustrative layout does not demonstrate good design. Nonetheless the layout is only illustrative and matters relating to appearance, landscaping, layout and scale are reserved for future consideration and it is my planning judgement that an appropriate scheme could be progressed for the site.
12. The location of the appeal site will allow future residents to access the services and facilities of the local area, including sustainable modes of transport. This is not at dispute between the parties.
13. Therefore, on the basis of the evidence before me I am satisfied that the appeal scheme is not contrary to the detailed criteria of Policy 6 and that the proposed development would not harm the character and appearance of the area. In this respect the appeal scheme is not contrary to Policies 6, 29, 39 and 40 of the CPD.

Open Space and Affordable Housing

14. The need for appropriate contributions to the provision of open space and Affordable Housing and the level of those contributions are not at dispute between the parties. Based on the evidence before me I find no reason to conclude otherwise.
15. However, the Planning Obligation submitted by the appellant is flawed.
16. A number of issues were raised by the Council in response to the submitted Planning Obligation and while many specific points were disputed by the

¹ EcIA report dated December 2021

² 21-18/001 C

appellant a draft, unsigned, planning obligation was nevertheless submitted to resolve some of the acknowledged issues.

17. The Procedural Guide – Planning appeals – England indicates at what stage in the appeal process planning obligations should be provided and I am not obliged to delay my decision to wait for a completed obligation. While it was suggested that a new signed Planning Obligation would be provided, some time has now passed, and no such document has been provided. Furthermore, I note that the appellant has consented to the appeal being determined on the basis of the originally submitted planning obligation.
18. To conclude this main issue, a flawed obligation does not carry any weight and I therefore find that the appeal scheme does not make appropriate provision for affordable housing and open space contribution, the appeal scheme is therefore contrary to Policies 15, 25, 26 and 29 of the CDP.

Other Matters

19. A number of local residents have referred to the appeal scheme resulting in an intensification of use of the highway, resulting in additional air and noise pollution and traffic congestion. The appeal scheme creates a new access on to Eve Lane for up to 20 dwellings. The Council has not raised an objection in this respect and the submitted Transport Statement³ has not raised an issue in this regard. Therefore, on the basis of the evidence before me I am satisfied that the appeal scheme would result in only a modest increase in traffic in the area, for which there is sufficient capacity, and that the site is accessible by sustainable modes of transport.
20. The appeal site currently provides a pleasant outlook to residents on Eve/Hay Lane. While the appeal scheme would inevitably change this outlook, the indicative plan shows that trees and hedges would largely be retained, and additional open space would be included within the scheme that would combine with the existing open space creating a pleasant village green like area. On this basis I am satisfied that the appeal scheme would not harm the outlook of residents on Eve/Hay Lane.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR

³ Transport Statement TPS dated September 2021