



Appeal Decision

Inquiry Held on 3 April 2024

Site visit made on 11 April 2024

by SRG Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/X1355/W/23/3334214

Land north of George Pit Lane, Great Lumley, County Durham.

- 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 Bellway Homes Limited (North East) against the decision of Durham County Council.
- The application Ref DM/22/00584/FPA, dated 23 February 2022, was refused by notice dated 6 June 2023.
- The development proposed is the erection of 148 dwellings with associated access, infrastructure and landscaping.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Case Management Conference was held on the 22 January 2024 to discuss procedural arrangements for the Inquiry. The Inquiry sat for 5 days and closing submissions were heard on 18 April 2024. Following the submission of a S106 Agreement, the Inquiry was closed in writing on 7 May 2024.
3. The application as originally submitted was for the erection of 157 dwellings. Following amendments, the application determined by the local planning authority (lpa) was for the erection of 148 dwellings with associated access, infrastructure and landscaping.
4. After the application was determined, the lpa adopted a new Parking and Accessibility Supplementary Planning Document (SPD)¹. The updated standards resulted in the submitted layout being deficient in the total number of parking spaces. The layout was amended to include additional spaces and consequential amendments were necessary to other plans. The lpa has no objection to the appellant's request that the appeal be determined based on the amended plans. The amendments were the subject of consultation. The substance of the proposal has not been so changed such that anyone would be prejudiced by the appeal being determined based on the amended plans.
5. The S106 Agreement provides for affordable housing (AH) including First Homes, the submission of a Biodiversity and Management Scheme and financial contributions for enhancements to bus services, open space, footpaths, primary healthcare, primary and secondary education and monitoring.

¹ October 2023.

Application for costs

6. At the Inquiry, an application for costs was made by Bellway Homes Limited (North East) against Durham County Council. This application is the subject of a separate Decision.

Main Issues

7. The landscape and visual impact of the proposed development and whether the proposed development would constitute sustainable development having regard to the location of the site in relation to services and public transport.

Reasons

Development Plan and other Local Guidance

8. The development plan includes the County Durham Plan 2020 (CDP). The site comprises open countryside immediately outside the settlement boundary of Great Lumley. Of the policies listed in the Statement of Common Ground (SoCG), the most relevant CDP Policies 6, 10, 21, 29 and 39².
9. The Spatial Strategy for housing involves a dispersed pattern of development principally focussed on the major towns that have the greatest opportunities for employment, services and facilities. CDP Objective 2, seeks to locate new development in areas which offer the best opportunity for sustainable development patterns, including means of travel other than the private car.
10. Policy 6 says that, subject to satisfying specific criteria, development on unallocated sites outside the built-up area that are well-related to a settlement will be permitted. The relevant Policy 6 criteria are (c) that the site does not result in the loss of open land that has recreational, ecological or heritage value or contributes to the character of the locality that cannot be adequately mitigated, (d) the proposal is appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement and (f) the site has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and level of service provision within the settlement. Policy 10 says that in the countryside development will not be permitted unless allowed for by specific policies³.
11. Policy 21 seeks to deliver sustainable transport provision by delivering and facilitating investment in safe sustainable modes of transport, through amongst other things, appropriate, permeable and direct routes for walking, cycling and bus access so that new development clearly links to existing services together with existing routes for the convenience of all users⁴ and ensuring that traffic generated, following the implementation of sustainable transport measures, can be safely accommodated on the highway network⁵. Policy 29 relates to sustainable design and seeks to achieve well designed buildings and places. Policy 39 indicates that development will be permitted where it would not cause unacceptable harm to the character, quality or distinctiveness of the landscape or to important features or views.

² Although not included in the RfR, the Ipa's Statement of Case identified CDP Policy 26 as a most relevant policy. In the addendum to the SoCG, the Ipa confirmed that Policy 26 is not relevant to the RfRs.

³ Footnote 54 says that relevant policies those related to, "...development on unallocated sites...".

⁴ Policy 21b.

⁵ Policy 21c.

12. Relevant Supplementary Planning Documents (SPD) include, Building for Life, which sets out design standards for new residential developments; Residential Amenity Standards which provides guidance on external space and amenity standards and Parking and Accessibility, providing guidance on the amount and types of parking required.

Issue 1

Landscape Character

13. Located to the south and east of the built-up area, the site comprises 2 arable fields separated by public footpath 14 (PF) that runs south from Front Street to join with PFs 15 and 16. PF16, also a Bridleway, runs along the southern boundary of the site and links to the wider footpath network to the east, south and west. The site lies within the Wear Lowlands County Character Area⁶. Here, a key objective is the improvement of the countryside around towns, particularly the urban fringe environment of former mining settlements. The site is within the Terraced Farmland Local Landscape Type (LLT). This area is described as an open landscape of largely arable farmland with sub-regular patterns of old hedges, fragmented in places, with scattered hedgerow trees and few woodlands. The countryside surrounding Great Lumley is dominated by this typology. Unlike lands to the far south and immediate north and east of Great Lumley, designated as Green Belt and Areas of High Landscape Value, the site does fall within any landscape designation. The site is in a Landscape Improvement Area where the strategy is one of enhancement. The relevant part of the strategy for housing and economic development in the Broad Landscape Type is to screen new development on settlement edges with substantial structure planting of native woodland.
14. Framework⁷ paragraph 180a refers to protecting and enhancing valued landscapes. Here, the site is typical of the landscape surrounding the settlement and I have no reason to disagree with the lpa and the appellant that for the purposes of applying the Framework, the site does not form part of a valued landscape. Overall, and consistent with the County Durham Landscape Value Assessment, the site has a Medium Landscape Value and given the dominance of the open arable/pasture landscape type and the harsh urban edge created by the Stainmore Drive estate, a Medium Susceptibility to change. These values combine to produce a site with an overall Medium Sensitivity.
15. In terms of the effect on landscape character, the site comprises a small part of the extensive Terraced Farmlands LLT. Through a combination of topography and tree/hedgerow planting, whilst there would be the permanent loss of farmland, the effect on the landscape character of the area would be highly localised, resulting in an initial Moderate Adverse landscape effect. In the medium term, (15-years +), with the implementation of the comprehensive landscape strategy, the effect on landscape character would be Minor/Moderate Adverse.
16. As to visual impacts, these relate to (a) private views from the houses backing on to the southern and western boundaries of the site, (b) views obtained by users of Cocken Lane and Front Street and (c) views obtained

⁶ Durham Landscape Character Assessment 2008.

⁷ National Planning Policy Framework.

from the network of PFs through and around the site. Whilst the planning system does not exist to protect the private interests of one person against the activities of another, in some cases, the protection of private interests may coincide with the public interest. Here, there is nothing to suggest that the development would result in the properties on the edge of the Stainmore Drive estate becoming so unattractive that they would be unacceptable places to live.

17. On the Cocken Lane and Front Street approaches, through a combination of existing trees and hedgerows, views of the site and housing beyond are highly localised. On the Cocken Lane approach, the allotments to the south of George Pit Lane and the dense woodland immediately to the north mostly screen the existing edge of the settlement. The site frontage to Cocken Lane comprises a deep dense mature hedge. To create the access, about half the length of this hedge would be removed and replaced behind an open grass area. In this approach, the houses would be prominent and extend the urban edge southwards. Given the moderate/high sensitivity of receptors⁸ using Cocken Lane, post construction, the visual impact of the development would be Moderate/Major Adverse. As the replacement planting matures, the overall impact, given the open nature of the access, would reduce to Moderate Adverse, but highly localised.
18. The Front Street access would require the removal of limited areas of hedgerow. The retained frontage hedgerow would be strengthened by replacement planting and the dense mature hedge on the eastern boundary of the site would be retained and strengthened. In addition, a substantial belt of woodland to the east and south enclosed by a new hedgerow is proposed. The bus stop on the northern side would require a short length of hedgerow to be removed and be set against the backdrop of dense woodland planting on the edge of the Water Treatment Plant. Overall, post construction, the visual impact would be Moderate Adverse reducing over time (15-years +) to Minor Adverse and again would be highly localised.
19. Walkers and riders on the PF/bridleway network have a high sensitivity to change. For much of its length, PF14 runs south from Front Street along the rear boundary of the Stainmore Drive development to join PF16. Walking southwards along this length, albeit influenced by garden boundaries of varying quality, attractive medium to long distance views are obtained across the countryside to rising land. The northern section of the route would be enclosed by development and existing views here would be permanently lost resulting in a Major Adverse visual effect.
20. The southern stretch of PF14 would cross the estate road and enter a substantial area of open space in the south-east corner of the site. Here, existing views would be retained albeit influenced by the new housing to the west. Post construction, the visual impact would be Moderate Adverse, reducing in time to Minor/Moderate Adverse. In the journey northwards along this stretch of footpath, the new dwellings would be visible across the area of open space, albeit softened by new landscaping. Overall, in this view, post construction the visual impact would be Major/Moderate Adverse reducing to Moderate Adverse over time.

⁸ Drivers and Pedestrians.

21. Further to the east, PF15 runs diagonally across the fields to join PF16 from where short distance views of the existing harsh urban edge are obtained. Given the degree of separation and the screening effect of existing hedgerows, post construction the visual effect would be Moderate Adverse reducing to Minor Adverse as the woodland belt matures.
22. PF16 runs along the southern site boundary where views of the existing urban edge are obtained through gaps in the hedgerow. Views south from this path are restricted by mature hedgerows. Development would bring the urban edge closer, albeit the new houses would be outward facing, and their appearance significantly softened by new planting. Post construction the visual effect would be Moderate/Minor Adverse reducing to Minor/Moderate Adverse over time. Further to the west, PF19, forms part of the Weardale Way long distance footpath. Views of the existing urban edge are obtained in medium distance views and, depending on the viewpoint, limited by existing planting. In this context, given the degree of separation and the presence of mature screening, the visual impact post construction would be Moderate/Minor Adverse reducing to Minor Adverse over time.

Policy 39 – Landscape says that new development will be permitted where the proposal would not cause unacceptable harm to the character, quality or distinctiveness of the landscape or to important features and views. I acknowledge the context in which the lpa accepted that the proposal, with mitigation, would not result in unacceptable harm. Whilst the proposal would result in the loss of open land with the boundary of the built-up area extended to the south and the east, the development would through its outward looking emphasis and implementation of the comprehensive landscaping strategy would achieve the objective of the Wear Lowlands County Character Area by improving the urban fringe environment. That said, when taken in the round, whilst the scheme overall would result in a highly localised Minor/Moderate Adverse effect, with mitigation, the development would not result in material unacceptable landscape and visual harm.

Issue 2

23. Dealing first with the nature of pedestrian links from the development. Once out of the site, residents would have 3 routes to facilities/services. From the Cocken Lane access, these would be northwards along the footpath on the east side of Cocken Lane to the junction with Front Street or north along Cocken Lane, then via Cambridge Drive, St Albans Close, Lincoln Walk and Millennium Park to join Front Street next to the Community Centre. From the Front Street access, a new path would be created on the southern side of Front Street to join the existing path.
24. Existing footpaths would be altered to provide a minimum width of 1.5m and where possible wider paths would be installed. Indeed, I saw several areas where significantly wider paths could be provided. At 1.5m, a path would allow a pedestrian and a pram to pass (Fig 6.8 MfS⁹). Whilst the new/improved paths on Cocken Lane and Front Street are sporadically overlooked, they are lit and well used. There is nothing in the evidence or from my observations to suggest that surveillance is so lacking that either of these routes would be perceived as unsafe and would deter their use.

⁹ Manuel for Streets (MfS) Department of Transport, Communities & Local Government & Welsh Assembly 2007.

25. Cocken Lane, next to the primary school, experiences varying levels of on-road parking during school hours, peaking at drop-off and pick-up times. I appreciate that at drop-off and pick-up times coming and goings reduces the carriageway to one lane and there is queuing/conflict. That said, the duration of these events is relatively short and there is no indication from the Highway Authority that this stretch of the highway/footpath is unsafe particularly for cyclists and pedestrians. Similarly, the presence of short-term parking next to the footway would not render it so unattractive as to deter its use.
26. An alternative to Cocken Lane/Front Street is the path via Cambridge Drive, St Albans Close, Lincoln Walk and Millennium Park. Currently on the short stretch of Cambridge Drive between Cocken Lane and St Albans Close there is no footway. As part of the off-site highway works, a short length of footway on the northern verge would be provided. The route is overlooked and mostly car free, with the last part through the park. Overall, this is an attractive walk. Although the path through the park is lit, I can understand that, for some residents, particularly at night, the path through the park might not be an attractive option. However, there is nothing in the evidence to suggest that the route is unsafe or the subject of anti-social behaviour. Moreover, at night-time, the lit Cocken Lane/Front Street route is a viable alternative. Overall, I formed the clear impression that the available routes through the settlement along Cocken Lane, Front Street or through Millenium Park are not unattractive or difficult walks.
27. Guidance on acceptable walking distances comes from several sources. The CIHT¹⁰ "Guidelines for Providing Journeys on Foot" published in 2000 lists desirable, acceptable and preferred maximum distances for Commuting and Schools as 500m, 1000m and 2000m respectively. For facilities/services elsewhere, the desirable, acceptable and preferred maximum distances are 400m, 800m and 1200m. The guidelines note that based on the average walking speed, a 10-minute walk equates to around 800m. MfS published in 2007 indicates that walkable neighbourhoods are typically characterised as having a range of facilities within a 10-minute (800m) walking distance. This is not an upper limit and MfS refers to walking as having the greatest potential to replace short car trips, particularly those under 2km.
28. The CIHT's 2015 "Planning for Walking" does not repeat reference to a maximum acceptable walking distance of 2000m. The document refers to Walking Neighbourhoods as having a range of facilities within a 10-minute walk (around 800 metres). The most up-to-date reference to walkable neighbourhoods is in the 2021 National Design Guide (NDG). Here walkable is referred to as local facilities within a 10-minute walk (800m radius).
29. Since the CIHT 2000 guidance and the 2007 MfS were published, the thrust of guidance on walkability has moved on and crystalised to a common range of up to 800m or a 10-minute walk distance. As such, the 2km distance referred to above would not be an appropriate measure to apply. Similarly, given that more recent guidance relates to a single measure, 800m or 10 minutes, the use of desirable, acceptable and preferred maximum distances is not appropriate either. Consistent with the NDG, all of the services/facilities bar the Co-op, the post office and 2 bus stops are inside the 800m radius.

¹⁰ Chartered Institution of Highways and Transportation.

However, I am puzzled by the relevance of an 800m radius. As the appellant's plan clearly shows it would be impossible to walk the radius. The approach adopted by the lpa and the appellant of identifying an actual walk distance and time is the most appropriate measure to use in this case. In assessing this issue in terms of distance, I have used the 800m or 10-minute walk as a benchmark.

30. The lpa uses the mid-point dwelling to assess distance/walking times and the appellant quotes distances/times from the closest and farthest dwellings. Accepting that on any scheme, there will be some dwellings closer to some facilities and some will be further, I consider that, in coming to an overall conclusion on accessibility, it is acceptable to use the mid-point walk distance and time. Key services/facilities serving the day to day needs of residents are, the primary school, the infant school, the pharmacy/GP surgery, the community centre, the Windsor grocery store, the post office and the Co-op.
31. Of all the key services, only the, the primary school is located at 800m or 10-minute walk, the upper end of the walkability threshold. The remaining key facilities are outside and for some i.e., the Co-op, the post office and the infant school, the 3 likely main destinations for future residents, they are well outside the 800m or 10-minute threshold. The Windsor grocery store is 785m or 9 minutes, the pharmacy is 878m or 11 minutes, the community centre is 965m or 12 minutes, the post office and the Co-op are a 1200m or 14-minute walk and the infant school is a 1400m or 15-minute walk.
32. The above thresholds are guidance and not binding code; however, they are an important tool in assessing the development against the sustainability objectives of MfS, the Framework and the development plan. MfS seeks to encourage a reduction in the need to travel by the car by ensuring that the day to day needs of most residents are within walking distance. The Framework seeks to manage patterns of growth through focussing development on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. The development plan objective is to locate new development where the opportunity for sustainable development patterns is maximised.
33. I have concluded that the pedestrian routes to the various services/facilities on Front Street would not be unattractive or difficult walks. Moreover, most facilities would be within a convenient cycling distance. However, given the distances set out above, it is unlikely that many residents would, particularly in winter or bad weather, choose to walk to the local services in preference to the private car.
34. The S106 Agreement would provide for an alteration to the existing bus services that would see one of them being rerouted along Front Street to the east, 2 new stops outside the development and the reopening of 2 stops outside the Stainmore Drive estate. CIHT guidance and the Building for Life SPD highlight that the preferred walking distance to a bus stop is ideally 400m. In my experience people may be inclined to walk further depending on the nature of their journey and the attractiveness of the destination for either employment or shopping. Again, taking the mid-point dwelling, the walk to the proposed stops would be some 390m to 450m and to the existing stops on Front Street and Scorers Lane would be between 795m and 885m. Whilst

these distances would not be unacceptable, distance is not the only factor. What is also important is frequency and destination.

35. Two services, the 71 and the 78, serve the village. The 71, the less frequent hourly service runs to either Seaham or Chester-Le-Street. This is the service that would be diverted past the new stops. The second service, the 78, although a more frequent, twice hourly service, runs to Sunderland and Consett. However, once the diversion of the 71 was put in place, the stops for the 78 service would be further away. Neither of these services run to the key regional and sub-regional employment and retail centres of Newcastle and Durham. Thus, notwithstanding the relative convenience of the stops and the provisions of the travel plan, given the limited frequency and destinations served, public transport would not provide a realistic opportunity for future residents to access employment/shopping by public transport.
36. The Highway Authority does not object to the development on the grounds of an unacceptable effect from traffic generated by the development on the safety and free flow of traffic on the wider highway network. I have no reason to disagree with that conclusion.
37. Drawing the above together, notwithstanding my conclusions on the utility of various routes for walking and cycling, the opportunity to substitute walking or public transport in place of the car would be extremely limited. Walking and public transport would not provide for a genuine choice of transport modes so as to realistically reduce dependency on the private car. Prospective residents are more likely to choose the car over walking/public transport to meet their employment/shopping needs. As such, the development cannot be regarded as being well related to the settlement or a sustainable location. This conclusion is consistent with Great Lumley's low position in the Settlement Study¹¹

Other Matters

38. The application site is currently laid to grass and has been used for arable agriculture. The application is accompanied by an Agricultural Land Classification report, which shows the land as Grade 3B, and is not the Best and Most Versatile agricultural land. There is nothing before the inquiry to suggest that the loss of this land would materially affect the viability of the wider farming enterprise.
39. The site does not form part of any statutory or non-statutory designated sites for nature conservation and comprises predominantly fields of low ecological value. This typology is widespread in the area. Framework paragraph 186d seeks to ensure that opportunities to improve biodiversity in and around developments is part of their design, especially where this can secure measurable biodiversity net gains (BNG). Here, the development would result in material BNG of some 8.78% in habitat areas and 38.6% for hedgerows. Thus, habitats within the site would be of greater ecological value as a result of the development. Implementation and ongoing maintenance of the habitat gains would be secured through the S106 Agreement. The Breeding Birds Surveys identified some Priority Species and several species identified are included on the UK Biodiversity Red and Amber Lists of species of

¹¹ County Durham Settlement Study 2018.

conservation concern. That said, inclusion on these lists does not indicate that, for the most part, the species are rare or subject to an immediate threat of extinction. Moreover, whilst there would be a loss of habitat, wildlife using the site would be accommodated in the wider area.

40. Notwithstanding that the lpa can show a housing land supply in excess of 4 years, the development plan does not seek to cap the growth of housing and Framework paragraph 60 makes it clear that a key objective is to boost the supply of housing. As such significant weight¹² is attached to the provision of market housing. It is acknowledged that within County Durham there is an acute need for affordable housing. In addition, the development would provide for specialist housing directed towards the elderly and those with mobility issues. Taken together, the provision of affordable and specialist housing attracts substantial weight.
41. The development during construction would provide economic benefit to the local and regional economy. Moreover, spending by new residents would contribute to the viability of local services. Together these economic benefits attract moderate weight. The development would provide public open space in excess of that required by the lpa and a suite of environmental benefits that attracts moderate weight. Whilst Framework paragraph 185 (b) indicates that BNG should be sought, it does not specify a threshold to be achieved. Whilst all new permissions are required to deliver at least a 10% BNG¹³, that requirement does not apply to this application. I have no reason to disagree with the lpa's submission that the BNG achieved here should attract significant weight.
42. The development would include offsite highway improvements, and provide for financial contributions towards education, primary healthcare, public transport and public footpath improvements. Whilst these features are directly linked to the development and are required to mitigate the impact of the development, they would provide some benefit to residents. Accordingly, limited weight is attached to these matters.

Planning Balance and Overall Conclusions

43. Before undertaking, the planning balance, I need to address the significant concessions made by the various lpa witnesses. Whilst I acknowledge that that those concessions were the result of cogent questioning by the appellant and I have not ignored them, I have used my own judgement, based on my own professional experience and the relevant policies of the development plan.
44. Notwithstanding my conclusion, relating to the effect on landscape and visual amenity, I am clear that when the issue of the location of the site in relation to services and public transport is addressed in the round, it does not represent a sustainable location. Even with the Travel Plan and the improvements to public transport, there would be no material change in travel modes thereby reducing reliance on travel by private car. As such, the proposal would not be physically well related to the existing settlement, would conflict with Policy 6 criterion f and Policy 6 when read as a whole, Policy 21

¹² Unless indicated otherwise, the weight attached to the various scheme benefits is positive.

¹³ Environment Act 2021.

and by definition Policy 10 regarding development in the countryside. Planning proposals are to be determined in accordance with the development plan unless material considerations indicate otherwise. These fundamental conflicts with the development plan and the harm that would result, when taken as a whole, are not outweighed by the acknowledged benefits of the development.

45. For the above reasons, and having regard to all other matters, I conclude that the proposal would conflict with the development plan read as a whole and the appeal is dismissed.

George Baird

Inspector

APPEARANCES

FOR THE APPELLANT

Hashi Mohamed, Counsel instructed by Neil Westwick of Lichfields.

He called:

Neil Westwick BA (Hons) DipTP MRTPI

Senior Director, Lichfields

Michael Carr BA (Hons) LA DIP UD RUDP

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Gary Holliday BA(Hons) M Phil FLI

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Darran Kitchener FCHIT CMILT BEng (Hons)

Director, Milestone Transport Planning

FOR THE LOCAL PLANNING AUTHORITY

John Barrett, Counsel, instructed by Helen Bradley, Head of Legal and Democratic Services, Durham County Council.

He called:

Louisa Ollivere MPlan, MRTPI

Senior Planning Officer Durham County Council

David Gray PGDip, BA (Hons), CMLI

Senior Landscape Architect Durham County Council

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Principal Policy Officer Durham County Council

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INTERESTED PERSONS

Cllr. Heavyside

Ms Juniper

Mr P McArdle

Mr M Nail

MR D Hunter

Mr T Morris

Mr Patel

Mr Earl

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 - Statement by Cllr Heavyside.
- ID2 - Statement by Ms. Juniper.
- ID3 - Walking routes to services Plan 22034-SK06.
- ID4 - Updated Amendments Note.
- ID5 - Ecological Technical Note.
- ID6 - Pre-commencement conditions statement.
- ID7 - List of suggested conditions.
- ID8 - Statement by Mr. McArdle.
- ID9 - Statement by Mr. Hunter.
- ID10 - Technical Note 05 – Response to resident’ appeal comments.
- ID11 - Completed Section 106 Agreement.
- ID12 - Appellant’s Application for costs.
- ID13 - Council’s response to the application for costs.