



Appeal Decision

Site visit made on 21 May 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th June 2025

Appeal Ref: APP/X1355/W/25/3361193

Five Arches Site, Evenwood Gate, Bishop Auckland, Co Durham

Grid Ref Easting: 416195. Grid Ref Northing: 524302

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Fenwick against the decision of Durham County Council.
 - The application Ref is DM/23/02174/OUT.
 - The development proposed is the construction of 10 semi detached two bed bungalows, to be built for a social housing provider.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought outline planning permission with all matters reserved. I have determined the appeal on that basis, treating any details relating to reserved matters as illustrative only.
3. The site address in the banner heading above has been taken from the appeal form, on the basis that the planning application form did not supply full address details.

Main Issues

4. The main issues are:
 - whether the proposed development would be suitably located, having regard to the spatial strategy of the development plan, and access to day-to-day services and sustainable transport; and
 - the effect of the proposed development on biodiversity, including protected species.

Reasons

Suitability of location

5. The appeal site lies adjacent to Evenwood Gate, which is comprised of a group of dwellings centred on the road junction between the A688 and Evenwood Lane. Whilst the Council's 2018 Settlement Study does not identify Evenwood Gate as a settlement, both main parties agree that it has the characteristics of a settlement. As such, although the site is defined by the development plan as countryside, and it is not allocated for development, it is physically connected to existing

development and is proposed to be accessed via an existing road serving a residential development under construction to the south.

6. Policy 6(f) of the County Durham Plan, Adopted 2020 (the CDP) requires development on unallocated sites to have good access by sustainable modes of transport to relevant services and facilities. CDP Policy 10(p) further states that development in the countryside must not be solely reliant upon unsustainable modes of transport and should exploit opportunities to improve access by foot, cycle, or public transport. CDP Policy 21 reinforces these principles by requiring development to deliver sustainable transport and integrate with existing walking, cycling, and public transport networks.
7. The appellant argues that the presence of bus stops approximately 50 yards from the site, served by direct bus routes to Bishop Auckland and Barnard Castle, mean it is exceptionally well connected via public transport. However, the available evidence suggests the service frequency is limited, at approximately one bus every two hours during the day, with no services beyond early evening. This level of provision would not support the objectives of CDP Policy 21, nor would it constitute a genuine choice of transport modes, as sought by paragraph 110 of the National Planning Policy Framework (the Framework).
8. Whilst Evenwood Gate itself contains no services or facilities that would meet the day-to-day needs of residents, the appellant emphasises its connectivity to local amenities in the closest defined settlement of Evenwood, including a primary school, health centre, convenience stores, and other community facilities. However, these services are generally all beyond the recommended 800 metre walking distance from the site, as set out in the Manual for Streets. Moreover, the walking route along Evenwood Lane is unlit, raising concerns about safety and usability, particularly during winter months or for vulnerable users.
9. Based on the available evidence, the site is not well served by sustainable transport, and there is insufficient evidence to convince me that future residents would not be heavily reliant on private vehicles to access day-to-day services. This reliance is inconsistent with the spatial strategy of the CDP, which seeks to direct development to locations that are, or can be made, sustainable.
10. For these reasons, I conclude that the proposed development would not be suitably located having regard to the spatial strategy of the development plan, and access to day-to-day services and sustainable transport. It would therefore conflict with Policies 6, 10 and 21 of the CDP, and the relevant provisions of the Framework, the aims of which have previously been set out.

Biodiversity and Protected Species

11. The Natural Environment and Rural Communities Act 2006 (as amended) includes a duty that every public body must, in exercising its functions, have regard to the purpose of conserving biodiversity. The Planning Practice Guidance advises that assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
12. The appellant contends that the issue of potential impacts on great crested newts (GCNs) could be addressed through District Level Licensing (DLL), a scheme operated by Natural England. However, whilst DLL is a recognised mechanism for managing the impacts of development on GCNs, its availability does not remove

the requirement for decision-makers to be satisfied, prior to the granting of planning permission, that the requirements of relevant legislation and planning policy are likely to be met.

13. In this case, the Preliminary Ecological Appraisal (PEA) identifies that the development is likely to result in the loss of approximately 0.8 hectares of suitable GCN habitat within 100m of a potential breeding pond. The PEA refers to the rapid risk assessment published by Natural England, which indicates that an offence against relevant legislation is “highly likely.” However, no surveys have been undertaken to confirm whether GCNs are present in the pond or to assess the scale of potential impacts.
14. Whilst the appellant suggests that DLL could be pursued at a later stage, there is no substantive evidence before me to confirm that the site is eligible for DLL or that this approach would be acceptable to Natural England. In the absence of such information, I cannot be satisfied that this approach would meet the tests set out under Article 16(1) of the Habitats Directive, including that the proposal would not be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range.
15. Moreover, Policies 41 and 43 of the CDP, and paragraph 193 of the Framework, require that significant harm to biodiversity be avoided, or where this is not possible, mitigated, or, as a last resort, compensated for. Without baseline survey data, it is not possible to determine whether the proposal would result in significant harm or whether mitigation or compensation would be adequate.
16. The same principles apply to the potential presence of reptiles, for which the PEA recommends targeted surveys to be undertaken at specific times of the year. The appellant’s suggestion that such surveys could be secured by condition is not consistent with the requirements of the development plan or the Framework. However, it is acknowledged that, in the case of bats, the PEA advises that potential impacts could be addressed through further inspections and a mitigation strategy, without identifying a specific need for additional survey work.
17. Nevertheless, for the reasons given above, I conclude that the available evidence fails to demonstrate that the proposal would avoid harm to biodiversity, including protected species. The proposed development would therefore conflict with Policies 41 and 43 of the CDP and the relevant provisions of the Framework, the aims of which have previously been set out.

Planning Balance

18. Paragraph 11 of the Framework directs that decision-making should apply a presumption in favour of sustainable development. Paragraph 11.d) is engaged where the policies most important for determining the application are out-of-date, including where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
19. The appellant contends that application of the standard method for calculating housing need, as set out in the December 2024 version of the Framework, would increase the Council’s annual housing requirement by 54%, resulting in an inability to demonstrate a five-year housing land supply. Whilst the Council argues that the increased requirement does not yet apply, for the purposes of this decision, I have considered the proposal on the basis of paragraph 11.d) being engaged.

20. The proposal would deliver 10 dwellings, which would contribute to the supply of housing in the area, would make efficient use of the land, and would deliver economic benefits through employment opportunities during construction. The appellant has also stated that the dwellings would be affordable and delivered in partnership with a social housing provider specialising in accommodation for vulnerable residents and ex-service personnel requiring assisted living. These are potentially substantial benefits, particularly in light of the objectives outlined by the Framework to significantly boost the supply of homes, including the provision of housing designed for specific groups.
21. Policy 11 of the CDP supports the development of rural housing exception sites where specific objectives are met. In this case, however, no substantive evidence has been provided to demonstrate a clearly identified local need for affordable or specialist housing of the scale and nature proposed. Although I have been provided with a copy of the heads of terms relating to the provider's prospective purchase of the site, no binding mechanism, such as a completed planning obligation, has been submitted to secure the development as affordable housing or to ensure that priority would be given to households with a local connection. As these are key requirements of Policy 11, the proposal fails to comply with its provisions. Consequently, whilst the provision of 10 dwellings attracts positive weight in favour of the proposal, only very limited weight can be attributed to the claimed benefits of affordable housing and specialist care.
22. The appellant has drawn my attention to a previous grant of outline planning permission for residential development on the site, under reference DM/15/00210/OUT. Although that earlier decision appears to relate to the same site, it proposed a smaller number of dwellings and was determined under a materially different planning policy context. Since then, the CDP has been adopted, the Framework has been revised, and the site context has evolved, including the partial build-out of adjacent development. These changes significantly reduce the relevance of the earlier permission to the current proposal. Accordingly, I afford that previous decision only very limited weight in the overall planning balance.
23. Set against the benefits outlined above are the harms previously identified arising from conflict with the development plan, the most relevant policies of which remain consistent with the Framework. This is particularly pertinent given paragraph 11.d) ii., which emphasises the importance of the Framework's policies directing development to sustainable locations. Therefore, even if paragraph 11.d) were to be engaged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR