

---

## Appeal Decision

Site visit made on 29 August 2014

by **M Seaton BSc (Hons) DipTP MRTPI**

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

Decision date: 29 September 2014

---

**Appeal Ref: APP/N1350/A/14/2220587**

**Land adjacent to 2 Sockburn Lane, Neasham, Darlington, Durham, DL2 1QX**

- 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 Mr Robin Hurst against the decision of Darlington Borough Council.
  - The application Ref 13/00927/FUL, dated 10 November 2013, was refused by notice dated 4 February 2014.
  - The development proposed is the erection of 2 No. Dwellings.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have noted that the appellant and the Council have described the address of the appeal site in different terms, with the appellant referring to '*The Stable Yard*', whilst the Council has identified the site as being '*2 Sockburn Lane*'. However, I note that the appellant has then identified the site as being the '*Paddock area adjacent to 2 Sockburn Lane*' in the grounds of appeal. From my observations on site, and incorporating a further minor change to the description, I am satisfied that the description of the site as set out in the header of this Decision Letter is accurate.
3. The content of the recently published national Planning Practice Guidance (the Guidance) has been considered, but in light of the facts of this case, unless stated within the justification for my decision, the Guidance does not alter my conclusions.

### Main Issues

4. The main issues are;
  - whether, having regard to local and national planning policy, the proposed residential development would be acceptable in the countryside;
  - the effect of the proposed development on the character and appearance of the area;
  - whether the proposals would safeguard the living conditions of neighbouring occupiers of No. 8 Neasham Hill, and the living conditions of the future occupiers of the proposed dwellings, having regard to privacy; and,

- whether the proposed development makes adequate provision for foul water drainage.

## **Reasons**

### *Residential development in the countryside*

5. The appeal site occupies a position within a paddock located to the south of No. 2 Sockburn Lane and the rear boundaries of residential properties on Neasham Hill. The land rises sharply towards the garden of No. 8 Neasham Hill at the eastern end of the paddock, which at the time of my visit was in use for the grazing of horses and also accommodated a modest stable and store building located close to the boundary with No. 2 Sockburn Lane. The field boundaries are defined by mature hedges and planting, with a short section of timber rail fencing along the boundary with No. 8 Neasham Hill.
6. Saved Policy E2 of the Borough of Darlington Local Plan 1997 (the Local Plan) requires most new development to be located within existing defined development limits. Saved Policy H7 seeks to resist residential development outside of defined development limits, unless there is a demonstrable need for it for forestry or agricultural purposes in a specified location, it involves the conversion of an existing building, or the extension of an existing residential building without materially detracting from its character or setting. Both the Council and the appellant would appear to agree that the proposed development is located beyond the development limits as defined in the Development Plan policy, and on this basis I am satisfied that the proposals would be regarded in policy terms as development within the countryside. In this respect, I have also been mindful of paragraph 55 of the National Planning Policy Framework (the Framework) which sets out the criteria for the promotion of sustainable development in rural areas, which would be broadly consistent with the requirements of the local plan.
7. The appellant has not indicated that the proposed development would meet an essential need for a rural worker to live near their place of work, or that the development would meet a specific housing need in response to local circumstances, particularly in respect of affordable housing. However, the appellant has stated that the design of the dwellings would be innovative and would raise the standards of design in the area. I have carefully considered this point, and whilst I note that the proposed dwellings would incorporate various sustainability measures which would weigh in favour of the proposals, the overall design of the proposed dwellings would not be truly outstanding or appear to exhibit any particular innovation in the context of the area, and consequently would not significantly enhance its immediate setting. I have taken into account the location of the appeal site immediately adjacent to the existing settlement, nevertheless the proposal would result in new residential development within the countryside for which there is no demonstrable exception.
8. The appellant has raised concern over the restrictive nature of the defined development limits, citing them as being too onerous being drawn up against the rear of the built form of the dwellings, and has cited that many properties have either extended or placed ancillary buildings beyond the development limits, and that the boundaries have been drawn in the wrong place. However, whilst I agree with the appellant that ancillary buildings

and structures have been placed within the residential curtilage of nearby dwellings, I am not persuaded that these are particularly intrusive in the context of the landscape or the countryside in this location, or would amount to justification for development of this nature beyond the defined development limits. In any event, it would be my conclusion that issues regarding the development limits would be a matter more pertinently addressed through the local plan process rather than on a piecemeal development application basis, and in the absence of any conclusive evidence, I have not attributed any significant weight to this matter.

9. On the basis of the evidence which has been placed before me and my own observations on the site, I conclude that the proposed development would result in an unjustified residential development within the countryside. The proposal would thus conflict with saved Policies E2 and H7 of the Local Plan which seek to require most new development to be located within existing defined development limits, and resist unjustified residential development outside of defined development limits. Furthermore, the proposed development would also conflict with paragraph 55 of the Framework, which sets out the special circumstances which would justify new residential development in the countryside.

#### *Character and appearance*

10. The appellant has contended that the existing stable block and associated activity related to the care of horses is an intrusive feature which undermines the rural appearance of the paddock. However, I note that the stable block is not overly large and is located within a relatively discrete location on the site. Furthermore, the activities associated with the care of horses would not be an unusual or unexpected feature of a rural landscape. I am therefore satisfied that the appearance of the existing site makes an overall positive visual contribution to the character of the area.
11. The proposed development would result in the introduction of two large detached dwellings in a relatively elevated position within the existing paddock, which would result in the development having an increased, and adverse visual prominence within the locality. Whilst I have had regard to the highlighted need to set the dwellings back within the site so as not to expose the development to flood risk, the resultant extensive length of driveway and curtilage to the front of the dwellings would exacerbate the adverse visual impact, and significantly erode the existing rural character and appearance of the land. The appellant has indicated a willingness to consider flexibility in both the scale and length of the driveway, and the use of materials. However, whilst I have had regard to this possibility, no such alternatives have been formally placed before me, and I have therefore assessed the visual impact on the basis of the driveway as proposed.
12. The proposed development would have an adverse effect on the existing character and appearance of the area. The Council has not cited any relevant Development Plan policies in the reason for refusal, and I have therefore assessed the proposals against the Framework and concluded that the proposals would conflict with the core planning principles at paragraph 17, as the development would not represent high quality design.

### *Living conditions*

13. The rear elevations and gardens of the proposed dwellings would be located close to the boundary which is shared with the terraced gardens of No. 8 Neasham Hill. Despite the angle between the neighbouring dwellings, as a result of the significant changes in levels between the appeal site and the gardens and house of the neighbouring property, the rear elevations and gardens of the proposed dwellings would be substantially overlooked, with a consequent adverse impact on the privacy afforded to both habitable rooms, and the occupiers of the dwellings when using the relatively small rear gardens. Whilst the erection of an appropriate boundary treatment may provide a small improvement to privacy in the garden as a result of the degree of screening, this would not provide a significant overall improvement given the elevated position of the neighbouring property.
14. In respect of the reciprocal relationship, given the existing openness of the gardens to No. 8 Neasham Hill and their existing visibility from Sockburn Lane and beyond, the loss of privacy to users of these gardens would not be so severe. However, I am satisfied that in the existing context, the occupiers of No. 8 Neasham Hill would also experience a loss of privacy in the use of the gardens as a result of the proximity of the proposed dwellings to the open common boundary.
15. The proposed development would fail to safeguard the living conditions of the neighbouring occupiers of No. 8 Neasham Hill, and the future occupiers of the proposed dwellings, having regard to privacy. The Council has not cited any relevant Development Plan policies in the reason for refusal, and I have therefore assessed the proposals against the Framework, and concluded that the proposals would conflict with the core planning principles at paragraph 17, as the development would not secure a good standard of amenity for all existing and future occupants of land and buildings.

### *Drainage*

16. The appellant has indicated that mains drainage is not available for the site, and that the expense of providing a 150m – 200m connection to the mains sewer, coupled with the requirement for the closure of roads and reinstatement to adoptable standards, precludes the provision of such a connection. On this basis, it has therefore been proposed that a private sewage treatment plant on the site would be provided as an alternative means of addressing the need for foul drainage.
17. In reaching my conclusions on this matter, I have had regard to the requirement reflected in the Guidance that discharge of foul sewage into the public sewer should be the first option to consider, unless such a solution would not be feasible. In this respect, I note that the Environment Agency has objected to the proposed development on the basis that inadequate justification has been provided to allow the connection to the main sewer to be discounted. Furthermore, whilst I note the brief reference made by the appellant to an insufficient fall of land on the site meaning that a pumped solution would be required, neither the application nor appeal have been accompanied by detailed information regarding the costs of undertaking a connection to the mains sewer, and therefore the feasibility of providing such a connection has not been assessed. In the absence of this

information, inconclusive evidence has been submitted by the appellant to set out why the use of a private sewage treatment plant would be the only feasible and practical option in this instance.

18. On the basis of the submitted information, it has not been demonstrated that the proposed development would be able to make adequate provision for foul water drainage. The proposals would not accord with Policy CS2 of the Darlington Core Strategy 2011, which seeks to ensure that all development proposals incorporate appropriate utilities provision. Furthermore, the proposals would not accord with the Framework, which seeks to ensure that new development prevents unacceptable risks from pollution.

### **Other Matters**

19. The appellant has cited the presumption in favour of sustainable development as set out within the Framework, and highlighted that development should be located where it will enhance or maintain the vitality of rural communities. However, as set out at paragraph 7 of the Framework, there are three dimensions to sustainable development, namely economic, social and environmental, which should not be undertaken in isolation because they are mutually dependent. In this instance, there is no clear environmental gain from the proposed development, and therefore irrespective of the other dimensions, the proposals cannot be regarded as sustainable development.
20. The issue of precedent for other similar development in the future has been raised by the Campaign for the Protection of Rural England (CPRE) and the Parish Council. However, no specific sites to which this may be applicable have been identified, and whilst I understand the concern, I envisage that the Council would successfully be able to resist any development which could be shown to be likely to cause demonstrable harm.
21. In reaching my decision, I have been mindful that there have been no objections to the principle of development from Northern Gas, Northumbrian Water, Northern Power Grid, or the Council's Highways team. However, whilst this would weigh in favour of the development, it would not be sufficient to outweigh the harm which I have identified in respect of the main issues.

### **Conclusion**

22. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

*M Seaton*

INSPECTOR

