



Appeal Decision

Site visit made on 11 August 2020

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: APP/N1350/W/20/3246663

Land North West of New Lane, Neasham, Darlington DL2 1QR

- 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 Stephen Sanderson against the decision of Darlington Borough Council.
 - The application Ref 19/00834/OUT, dated 28 August 2019, was refused by notice dated 2 December 2019.
 - The development proposed is an outline application for up to five dwellings (with all matters reserved).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. The planning statement accompanying the application indicates that access to the site is off New Lane. I have had regard to this in the determination of this appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development would be appropriately located, having regard to the Council's spatial strategy for new housing with particular regard to the location of the site outside of the development limits of Neasham.
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - The effect on the living conditions of prospective occupiers of the proposed development with particular regard to potential disturbance from the adjacent nursery business.

Reasons

Whether or not the proposed development would be appropriately located

4. The appeal site comprises a relatively flat 'L' shaped piece of land that was formerly partly occupied by glasshouses and a storage building. It is bounded

- by residential properties on Teesway and New Lane to the south and east respectively and by a plant nursery to the north and west. A dwelling 'Hopcroft' adjoins the northern boundary of the existing nursery with open countryside beyond.
5. Neasham is a relatively small village which, other than a public house, has very few other facilities. Other than the dwellings on New Lane, the village is configured in a predominantly ribbon form with mainly detached dwellings occupying both sides of Teesway.
 6. The appeal site is located outside of the development limits for Neasham as defined by the Darlington Borough Local Plan 1997 (the Local Plan). Saved Policy E2 of the Local Plan sets out that certain types of small scale development, including housing, may be acceptable beyond development limits, subject to meeting the needs of rural communities and provided that unacceptable harm to the character and appearance of the rural area is avoided.
 7. In addition, the Council's approach to the consideration of the location of new development is also set out in Policy CS1 of the Darlington Local Development Framework Core Strategy, adopted in 2011 (the Core Strategy). This sets out a hierarchal approach which seeks to concentrate new development in sustainable locations in main urban areas with good accessibility. Outside the limits of development of villages, policy CS1 indicates that development will be limited to that required to meet identified rural needs.
 8. The Council indicates that it has in excess of five years supply of deliverable housing land¹. Consequently, I do not consider that paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged in respect of housing land supply. In my view, Policy E2 of the Local Plan, Policy CS1 of the Core Strategy and the use of development limits broadly reflect the aims of the Framework in relation to sustainable development in rural areas. Consequently, I attach significant weight to these policies.
 9. Taking into account the above position on the supply of deliverable housing land, I accept the Council's view that these relevant development plan policies seek to focus development towards larger village locations which are or can be made sustainable. Neasham is not identified in the development plan as being one of the larger village locations in the Borough. The relevant policies do not introduce a blanket ban on development outside of development limits but provide for certain exceptions, taking into account the impact on the character and appearance of an area.
 10. Although the Framework takes some account of the transport shortcomings of rural areas, its focus is on maximising the use of sustainable transport solutions. It therefore remains desirable for new residential development to be located in appropriately served settlements. Neasham is a relatively small village with limited facilities and is not well served by public transport.
 11. Whilst the occupants of the proposed dwellings would make use of the services and facilities in nearby settlements, which would provide a limited degree of support to their vitality, it is likely that those occupying the dwellings would rely heavily on the private car to access these. While this weighs against the

¹ Darlington Borough Council, Five Year Housing Land Supply Position Statement, June 2020

development, it is consistent with the Framework in that sustainable transport opportunities are likely to be more limited in rural areas. Nonetheless, it is evident that the proposal would place a high reliance on the use of the car which would not wholly accord with the environmental dimension of sustainability.

12. I do not consider that the modest number of dwellings proposed would contribute to the enhancement or maintenance of the vitality of nearby settlements to any significant degree. I have no evidence to suggest that Neasham currently lacks vitality or viability as a settlement to the extent that the proposed development would substantially contribute. Furthermore, I have no substantive evidence to demonstrate that the proposal is required to meet an identified local need.
13. Taking these factors into account, I consider that the proposed development outside of the defined development limits of Neasham would be contrary to the locational strategy of the development plan and would not wholly accord with the environmental dimension of sustainability. Consequently, the proposal would be contrary to Saved Policy E2 of the Local Plan and Policy CS1 of the Core Strategy.
14. In addition, the proposal would not satisfy any of the criteria identified in Saved Policy H7 of the Local Plan relating to the types of housing development that would be acceptable outside of development limits. However, this policy is not entirely consistent with the Framework with respect to the promotion of sustainable development in rural areas. Consequently, I have attached limited weight to the provisions of this policy which, in any event, is not determinative in my consideration of this appeal.

Character and appearance

15. A significant part of the appeal site comprises a former nursery with the remainder comprising a grassed area. The site, together with the remaining nursery, formed an established part of the rural character of the area lying beyond the development limits of the village. The Council indicate that the development limits were drawn tightly around the village with the intention of controlling the northern encroachment of residential development beyond the confines of the village with the nursery sites beyond.
16. The appeal site is partly visible from Dibdale Road to the north east and from the bridleway that runs along the eastern boundary of the site. Although the site was formerly occupied by nursery buildings, such buildings in this area form part of the established character of the rural landscape beyond the development limits and form part of the rural setting of the village. In my view, the appeal site and the remaining nursery provide part of the rural transition between the built settlement and the open countryside beyond. The site is currently comprised of hardstanding and grassed area. In the context of its relationship with the existing nursery, I do not consider its current appearance to be unacceptably detrimental to the character of the surrounding area.
17. The proposal would result in the replacement of a former nursery site and grassed area with built development. This would appear as a prominent spur of development extending beyond the development limits and protruding into the rural landscape. The appearance and character of the area in both views

from the bridleway and the wider countryside would be unacceptably changed and a more urbanised character would prevail that would extend the built settlement into the countryside. In doing so, the proposal would further add to the erosion of the ribbon development character of the village in the vicinity of New Lane.

18. Overall, I consider that the proposed development would fail to conserve the ribbon development form of the village and would result in a protrusion of residential development beyond the defined limits of development. Consequently, it would not be sympathetic to the distinctive and established character of the area. The proposal would therefore be contrary to Policy E2 of the Local Plan which, amongst other things, requires that development outside of development limits should not cause unacceptable harm to the character and appearance of the rural area.
19. Although not cited as a reason for the refusal of planning permission, the Council has drawn my attention to Policy CS2 of the Core Strategy which, amongst other things, requires development to reflect or enhance the distinctive natural, built and historic characteristics of the local area. The development would be contrary to the provisions of this policy also.

Living conditions

20. The adjacent nursery predominantly operates from within glasshouses and polytunnels and is modest in size. The Council indicates that this is used for plant growing for wholesale purposes. I have no evidence to suggest that it is used for retail sales to any significant degree. At my site visit I did not notice any appreciable noisy activities nor any vehicle movements. Moreover, there was no evidence to suggest that its primary function is for retail sales.
21. In addition, I have no evidence to suggest that the appellant's contention that the business operates on a seasonal basis, concentrating in spring and early summer, may be incorrect. Furthermore, I have no evidence to suggest that the occupiers of existing nearby properties on New Lane have been the recipients of any unacceptable noise and disturbance arising from the former and existing nurseries and their associated deliveries.
22. In my view, the existing nursery is a relatively modest business which, by the nature of its activities, is unlikely to be a significant and sustained generator of noise. Whilst I accept that there may be delivery vehicles accessing the nursery, given its modest size I do not consider these to be unacceptably frequent to the extent that significant noise and disturbance would be generated.
23. Taking the above factors into account, I do not consider that there is any substantive basis to support the Council's assertion that the prospective occupiers of the proposed dwellings would experience any appreciable disturbance of an extent that would cause harm to their living conditions. Consequently, there would be no conflict with Policy CS16 of the Core Strategy which seeks, amongst other things, to ensure that new development does not have a detrimental impact on general amenity.

Other matters

24. The appellant has drawn my attention to a previously granted planning permission on a former nursery site off New Lane ('M Wood and Co.' site) and

located to the north east of the appeal site. This site was also located outside of the development limits for Neasham. However, the Council has explained that this permission was granted at a time when it was unable to demonstrate a 5 years supply of deliverable housing sites. The planning policy context was therefore materially different to that which now exists in the consideration of the appeal scheme before me. Consequently, I do not consider that the built development on the former 'M Wood and Co' site sets a precedent that should be given any significant weight in the determination of this appeal. I have determined this appeal on its own individual planning merits having regard to the current planning policy context.

25. I have taken into account the appellant's contention that the flood defence banks, located to the north of the appeal site would provide a physical limitation to the northerly expansion of the village. Whilst this may be the case, this does not alter my view that, in the current planning policy context, the expansion of the village outside of the development limits would be contrary to the locational strategy of the development plan in circumstances where the Council can demonstrate in excess of 5 years housing land supply. The purpose of the flood banks is to assist in the management of flood risk and not to act as a barrier to define the acceptable planned extent of development. Consequently, I have attached little weight to this contention.
26. The Council have drawn my attention to two relatively recent appeal decisions for development within the Borough on land outside of the limits of development (Refs APP/N1350/W/18/3207197 and APP/N1350/W/18/3215705). Whilst there are some similarities to the issues in this case, each decision must be determined on its own merits. Consequently, I have only given limited weight to these decisions and I have determined the appeal on the basis of the proposal before me and the site circumstances.
27. Similarly, the appellant has also drawn my attention to the High Court Case between *Braintree District Council and the Secretary of State for Communities and Local Government; Greyread Limited and Granville Developments Limited, [2017] EWHC 2743 (Admin)*. Whilst there are some similarities also to the issues in this case, the proposal in the appeal before me is for development which would be located on a road in a village where there are a number of dwellings nearby. Whilst I have taken this case into account, the proposed development would not result in "new isolated homes in the countryside".
28. I have also taken into account the concerns of interested parties and the Parish Council including the impact of the proposal on highway and pedestrian safety, potential loss of privacy and disturbance from building work. Although these matters have been carefully noted, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons.

Planning Balance

29. I recognise the benefits of the proposal, particularly in supporting the Government's objective of adding to the supply of new homes. However, the Council already has a healthy housing land supply and consequently I attach moderate weight to this benefit. There would also be some limited economic benefits associated with the construction of the development. Future residents would contribute to the support of local services in the area but, given the

modest scale of the proposed development and the limited facilities in the village, this contribution would unlikely be significant.

30. I have also found that the location of the proposal, adjacent to the nursery, would not result in any disturbance of an extent that would cause demonstrable harm to the living conditions of the prospective occupants of the development.
31. However, there would be environmental harm caused to the character and appearance of the local area and the creation of new housing at an inappropriate location. In being contrary to the locational strategy of the development plan, and the lack of access to services by non-car modes of transportation, the proposal would not accord with the environmental dimension of sustainability.
32. As the proposal would be outside of the development limits it would not be in accordance with the development plan meaning that planning permission should not be granted unless material considerations indicate otherwise. In this case the social and economic benefits that I have identified do not outweigh the harm that would be caused to the character and appearance of the area when assessed against the development plan and the Framework as a whole. Accordingly, the material considerations do not indicate that planning permission should be granted. The continued expansion of Neasham beyond the defined development limits would undermine the spatial integrity of the development plan and the ability of the Council to deliver a truly plan-led approach.
33. There is no dispute between the main parties that the site may be considered as previously developed land. The proposal therefore gains some support from paragraph 84 of the Framework. However, whilst the proposal would be physically well-related to the existing settlement, the development would cause harm to the character and appearance of the area.
34. On balance, I do not consider that the support provided by paragraph 84 of the Framework outweighs the harm that I have found which would be caused to the character and appearance of the area. Overall, I find that there are adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the development plan and Framework policies as a whole.

Conclusion

35. There are no considerations of such weight as to warrant a decision other than in accordance with the aforementioned development plan policies and the Framework when considered as a whole. Consequently, for the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR