



Appeal Decision

Site visit made on 29 October 2018

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2018

Appeal Ref: APP/N1350/W/18/3207197

Land at Gate Lane, Low Coniscliffe, Darlington DL2 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Ward against Darlington Borough Council.
 - The application Ref 18/00023/OUT, is dated 10 January 2017.
 - The development proposed is described on the appeal form as "Outline Planning Permission For Residential Development Of Up To 14 Dwellings With All Matters Reserved Apart From Access (Resubmission) (Additional And Amended Information Received 31 May 2018)".
-

Decision

1. The appeal is dismissed and outline planning permission is refused.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. However, I note that the main parties agreed to include access as a matter to be considered as part of the outline application. I have proceeded to determine this appeal on that basis.
3. The description of the development provided on the planning application form has been replaced by a fuller version on the appeal form and in subsequent appeal documents. I consider that subsequent description to be more accurate and comprehensive and I have therefore used it within this decision.
4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
5. The Council has confirmed that the Low Coniscliffe and Merrybent Parish Neighbourhood Plan Submission Draft 2018 (NP) has been submitted. However, the NP has yet to reach the post-examination stage.

Main Issue

6. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. The Council has provided an appeal statement including a recommended reason for refusal which refers to concerns

that the proposal would be contrary to development plan policies and the effect of the development on the character and appearance of the village and the area.

7. Accordingly, I identify that the main issue in this appeal is whether the site would be a suitable location for residential development with regards to local and national planning policy as well as the character and appearance of Low Coniscliffe and the surrounding area.

Reasons

Planning Policy

8. The appellant has questioned the weight which can be given to the policies of the development plan, in respect of the status of the Council's Housing Land Supply (HLS) as well as specific policies due to their age and compliance with the Framework.
9. In respect of HLS, the Council states that it has a substantial supply of deliverable housing land¹. The appellant has questioned the identified supply and in particular whether the sites which contribute to the supply are deliverable. Whilst the onus may be on the Council to provide clear evidence in respect of identified sites, I also note that the appellant has not provided substantive evidence to contradict the Council's evidence in relation to HLS and in particular whether this would fall below a 5 year HLS with or without a buffer. Therefore, based on the evidence before me, I conclude that the Council is in a position to identify a HLS in excess of 5 years. Paragraph 11(d) of the Framework is therefore not triggered in respect of HLS.
10. The appeal site is located outside of the limits of development as defined by the Council's Local Plan 1997 (LP). The appellant has questioned the weight to be given to the development limit, for reasons including the age of the LP and the evidence on which it was based. I also note that the Council has granted planning permissions for suitable residential development beyond development limits in order to ensure a 5 year HLS. Notwithstanding that, development limits remain a valid approach to directing development to suitable locations whilst controlling the outer spread of settlements, even if they have had to be relaxed in some cases. On the basis that I have found that the underlying objectives of the development limit are still valid, it should be given at least moderate weight and is not out of date in respect of this appeal.
11. Policy E2 of the LP sets out the types of development which will be accepted beyond development limits, and refers to small scale development beneficial to the needs of rural communities, including some forms of housing. Rather than representing a blanket restriction on sustainable residential development, I consider that Policy E2 broadly reflects the aims of the Framework, including the approach to the provision of rural housing as well as the assessment of character and appearance. On that basis, I give Policy E2 substantial weight in my consideration of this appeal.
12. With regards to Policy CS1 of the Core Strategy 2011 (CS) the appellant refers to the approach of the policy to meeting identified rural needs. However, this approach is not fundamentally at odds with the policies of the Framework, and the aims of Policy CS1 represent an appropriate locational strategy in that it

¹ Darlington Borough Council, Five Year Housing Land Supply Position Statement, October 2018

directs development to the most sustainable locations. When applied as part of the development plan as a whole, including Policy E2 of the LP, Policy CS1 is part of an appropriate policy approach to assessing development proposals and as such I give it substantial weight.

13. I therefore conclude that due to its location beyond the limits of development as defined by the LP, the proposed development would be contrary to Saved Policy E2 of the LP and Policy CS1 of the CS. These Policies are broadly consistent with the Framework in respect of achieving sustainable development whilst delivering a sufficient supply of homes.
14. The Council's decision also refers to Policy H7 of the LP which relates to the types of residential development which will be permitted outside the development limits. However, this policy does not reflect the Framework in respect of promoting sustainable rural development, and I therefore give Policy H7 limited weight. The proposal would also be located outside of the settlement boundary as shown on the NP Policies Map and would be contrary to Policy LCM 11 of the NP. However, I give the policies of the NP limited weight as it has not yet been through the formal examination stage. The conflicts with Policy H7 of the LP and with the NP are therefore not determinative matters in this appeal.

Character and Appearance

15. The appeal site consists of an open field at the entrance to the village. The site is in a prominent position and is readily visible from the entrance road to the village leading from the A67. Due to this prominent location, the site makes an important contribution to the countryside setting of the village as well as its distinctly separate character from the A67 and built development adjacent to it.
16. Although matters including layout, landscaping and appearance are reserved for future determination, I consider that the residential development of the site would be apparent as the intrusion of built development onto this field, with subsequent harm to the rural setting of the village. The proposed low density of the scheme and the potential to retain or enhance landscaping would not mitigate the harm arising from the encroachment of built development into the countryside setting of the village. The proposal would also be likely to affect the rural character of the field boundary adjacent to the road due to the need to provide access and visibility splays, which would further detract from the green countryside character of the route into the village.
17. The appellant has referred to planning permission granted for residential development on a site on the opposite side of Gate Lane to the appeal site, which is also outside the development limits. However, the Council has confirmed that at the time of determining that proposal it could not demonstrate a 5 years supply of deliverable housing sites. The proposal opposite was therefore assessed under the 'tilted balance' of the previous version of the Framework. In that case, the Council recognised that the proposal would change the character and appearance of the area but it considered that those impacts would not significantly and demonstrably outweigh the benefits. The policy context at the time of that application was therefore materially different to the appeal before me.
18. Nevertheless, I acknowledge that the development on the opposite side of Gate Lane will change the character of the approach to Low Coniscliffe as well as the

countryside around the village. However, this will increase the importance of the contribution of the appeal site to the character and setting of the village. Even with potential landscaping, the residential development on both sides of the road would be apparent, with subsequent visual harm to the green countryside character of the access route to the village and the degree of separation between the village and the A67. Therefore, whilst planning permission may have been granted for residential development on a site on the opposite side of the road, the appeal proposal would lead to undue cumulative visual impact from development at the entrance to the village.

19. I conclude that the proposal would harm the character and appearance of the village and the area, particularly due to the effect on the countryside character of a prominent site at the entrance to the village. The proposal would therefore be contrary to Policy CS2 of the CS which requires development to positively contribute to the character of the local area and its sense of place. The proposal would also be contrary to the Framework in respect of achieving well-designed places as well as conserving and enhancing the natural environment.

Other Matters

20. I am mindful of the benefits of the proposal. The development would add to the supply and mix of housing in the area in support of the Government's objective of significantly boosting the supply of homes. However, given the healthy housing land supply identified by the Council this does not weigh significantly in favour of the proposal. Whilst the development would have good access to services in Darlington, this can be said of many sites in close proximity to the town. Future residents of the dwellings would contribute to the support of services in the area, although given the limited scale of facilities in the village this contribution would be of a commensurately limited effect. The construction of the development would generate economic benefits through employment and other investment, albeit for a limited period of time. I give these benefits limited weight.
21. The appellant has referred to a previous planning application for the appeal site², which was refused for reasons including access and insufficient information on archaeology, ecology and drainage. The appellant emphasises that this previous refusal did not refer to the principle of development or character and appearance. However, this previous decision does not fetter the Council in identifying issues in respect of future applications. Furthermore, I note that the Council states that it did not express acceptance of the principle of residential development when considering this previous proposal. I acknowledge the frustration expressed by the appellant in respect of the scope of the Council's decision on the previous application, but this does not lead me to a different conclusion in respect of this appeal which I have determined on its individual merits.

Conclusion

22. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross INSPECTOR

² Application ref: 16/00575/OUT