

Appeal Decision

Site visit made on 17 June 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 11 July 2019

Appeal Ref: APP/N1350/W/19/3224050

Land adjacent to 80 Merrybent, Darlington DL2 2LE

- 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 John Airey (Hewitson Group) against the decision of Darlington Borough Council.
 - The application Ref 18/00856/FUL, dated 12 September 2018, was refused by notice dated 6 November 2018.
 - The development proposed is 4no. new build houses with detached garages and associated landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The development plan comprises the saved policies of the Borough of Darlington Local Plan (1997 – DLP) and the Darlington Core Strategy Development Plan Document (2011 – DPD). Reference has been made by both parties to the emerging Darlington Draft Local Plan (2018) and the Low Coniscliffe & Merrybent Parish Neighbourhood Plan Submission (2018). However, with regard to the latter two I have no further evidence before me to indicate that these documents and their policies have been adopted or confirmed, or indeed have been subject to consultation. I give their provisions limited weight at this time and I have determined the appeal accordingly.
3. I have adopted the development site address given on the Council's decision notice and the appellant's appeal form in the banner heading above in the interests of consistency.

Main Issue

4. The main issue is whether the appeal site is an appropriate location for the proposed development, having particular regard to the development plan and other material considerations and the effect of the proposal on the character and appearance of the surrounding area.

Reasons

5. The development limits for Merrybent are drawn tightly around existing dwellings to such an extent that the often lengthy rear gardens of properties on both sides of the A67 are specifically excluded. The same applies to No. 80 in respect of the wider garden areas to the rear and side; the latter being land that forms the appeal site.

6. DPD policy CS1 sets out the Council's locational strategy, setting out a broad hierarchy of settlements and encouraging development in accessible locations. Together with DLP saved policy E2, which identifies Merrybent as a settlement, DPD policy CS1 supports proposals that would support the vitality and viability of villages, the services therein or the rural economy more widely. Beyond the development limits for those settlements, development will be limited to that required to meet identified rural needs.
7. DLP policies E2 and H7 set out the circumstances in which new housing will be permitted outside development limits, and thereby in the countryside. Both of these policies are underpinned by the Council's desire to safeguard the character of the countryside and villages within it. Although the development plan is now of some age, considerably so in the DLP's case, the policy approach set out therein is broadly consistent with the Framework in terms of seeking to promote sustainable patterns of development in rural areas, supporting local services and facilities and to reflect the character and qualities of the District's villages and countryside.
8. Merrybent is a broadly linear settlement. Frontage housing extends broadly equally along both north and south sides of the A67, albeit that the easterly and westerly extents of the settlement's built-form tends to be offset from one side of the road to the other. Thus, on the northern side of the A67 housing extends further eastwards than it does on the southern side. Conversely, the settlement's built form extends further westwards on the southern side of the A67 than it does on the northern side.
9. The appeal site and the house at No. 80 are located at the western end of the settlement on the southern side of the main road. By virtue of the offset extremities of built development from north to south sides of the A67 noted above, the appeal site and property are already some way beyond the westerly extent of housing on the northern side of the road.
10. Thus, although the proposal would perpetuate the prevailing built form in extending along the road in a linear manner it would extend it significantly further westwards into the rolling, open countryside that surrounds Merrybent. Whilst this would be particularly noticeable in the context of the general absence of built development opposite the site, its stark incongruity would be highlighted by the long approach views towards Merrybent from the west. From this aspect, the substantial flank elevation of the end property within the development would be clearly seen above intervening, but generally low-level, roadside and field hedges and trees.
11. Moreover, the split-level nature of the proposed dwellings bridging the fall from the higher northern portion of the site to the lower southern portion, would exacerbate the already significant scale, bulk and massing of the end property's flank. I accept that No. 80 is already seen in longer approach views to Merrybent from the west. However, it is more effectively screened and softened by existing vegetation, whilst its more modest proportions are less strident than those of what are proposed in this instance.
12. More significantly, the nature of the site, and particularly its ground levels, would mean that the proposal would appear as a strident and incongruous addition at the edge of and just beyond, the existing settlement. The existing, extensive and sprawling area of land associated with No. 80 provides a pleasing and discrete transition from the surrounding open countryside to the

- residential context of Merrybent itself. Although screened in part from closer views by the roadside vegetation, the existing house at No. 80 is clearly visible in longer views from the western approach to Merrybent. So too, because of these open views from the west, would the split-level flank elevation of the end building be a harsh and prominent feature at the entrance to Merrybent.
13. Indeed, the falling ground levels and the split-level design of the houses would result in incongruously large and bulky buildings, not just from the western approach, but also from the south looking back towards the village. Here, from a path along the banks of the River Tees, the visible height and bulk of the rear elevations, exaggerated by the additional storey facilitated by the sharp drop in levels across the site from front to rear, would be of a scale and nature out of character with the prevailing rural character of Merrybent.
 14. The proposed addition of four houses beyond the western extent of Merrybent would further extend the already strung out 'ribbon' form of the village further westwards. That it would do so in an incongruous manner resulting in an obtrusive and excessively bulky flank elevation of the end property that would be visible from distance on approach to Merrybent would create an unnecessarily harsh transition from the settlement to the open countryside. Despite Merrybent's position on a slight ridge above the River Wear, the well landscaped rear gardens give it a soft edge in keeping with the nature of the surrounding countryside. Notwithstanding the mature tree towards the middle of the site's southern boundary, the substantial rear elevations of the dwellings, would be excessively out of scale and out of keeping with the more discrete setting of existing dwellings on the settlement's southern side.
 15. The appeal site lies beyond, but directly adjoining, Merrybent's development limit. The proposal cannot therefore be said to result in isolated dwellings in the open countryside. However, there are no services or facilities in Merrybent and, given the proximity of the settlement to Darlington, residents are unlikely to access anywhere other than Darlington for services and facilities. I saw that although the pedestrian links to Darlington were paved and illuminated, a lengthy walk would be required to reach Darlington and this would act as a significant discouragement to such a mode of access.
 16. Reference has been made to public houses at High and Low Coniscliffe both being within walking distance. That may be so but both would be accessed on foot by walks of some distance alongside a busy A-road. Nor does it appear that either settlement provides a broader range of services or facilities. I am advised of the presence of a bus service providing a link to Darlington, and indeed I saw bus stops within Merrybent, but I have no evidence before me regarding the frequency or extent of any such service. Thus, I concur with the Council's suggestion that residents would be heavily reliant on private vehicles to access the services and facilities present in Darlington, providing little or no support to those in surrounding villages.
 17. For all of the above reasons, the proposal would unacceptably harm the character, appearance and rural setting of Merrybent and the surrounding area. Nor do I consider the appeal site to be an appropriate location for new housing development, and it has not been demonstrated that the proposal would meet an identified rural need or the exceptions provided by DLP saved policies E2 and H7. The proposal would thus be in conflict with DPD policy CS1 and saved DLP policies E2 and H7. These policies seek to support proposals that would

contribute to the vitality and viability of villages, the services therein and the rural economy more widely in accessible locations. As such, the proposal would also be in conflict with the Framework in respect of rural housing and promotion of sustainable transport patterns.

18. There is no one single or distinctive style, character or appearance to dwellings within Merrybent whilst the scale of those buildings is equally varied on both sides of the road through Merrybent. There is broad agreement between the main parties that there is no architectural uniformity to the settlement and, having viewed the site and its surroundings and walked along the road through Merrybent, that is something with which I agree.
19. In this context, the mix of contemporary design and crisp materials would not appear out of place with the varied character and appearance of the existing houses within the rest of the village. Nor, when considered as part of the street frontage, would the scale of the detached dwellings appear incongruous.
20. However, these factors do not overcome the significant harm that would arise from the scale and bulk of the dwellings when viewed from the south and west. The site's, and more generally Merrybent's, location on the shoulder of a rise in landform exaggerates the scale and incongruous nature of the proposal from these aspects, whilst the proposal would result in a distinct and unwelcome extension of the village further westwards. Whilst I accept that the appeal site has a domestic residential appearance, it is discrete and does not undermine the rural setting of Merrybent or the nature of the land around it. Thus, for these reasons, the proposal would fail to safeguard the rural character and appearance of Merrybent and the land around it, contrary to DPD policy CS1 and DLP policies E2 and H7.

Other Matters

21. The appellant has noted a number of matters to which the Council do not object by reason of agreement, imposition of appropriate planning conditions or by not being set out in the two stated reasons for refusal. I have no compelling evidence before me that would give me reason to reach a different conclusion in these respects and such factors weigh modestly in support of the proposal.

The Planning Balance

22. The development plan is now of some age. Paragraph 11 of the Framework advocates a presumption in favour of sustainable development. For decision taking, the relevant approach is set out at bulletpoints (c) and (d) of paragraph 11. I am satisfied that the policies referred to in the Council's refusal reasons may reasonably be referred to as those 'most important' for determining the application. The circumstances in which these may be considered to be out-of-date are set out at footnote 7 of the Framework.
23. Both parties have submitted considerable amounts of evidence reviewing the deliverability of sites to support their respective stances and there remains significant disagreement between the parties as to the extent of the housing land supply upon which the Council can rely. From the evidence before me it is clear that there is significant variation over a relatively short time period in the

Council's housing supply figures¹. Having a deliverable 5 year supply of housing land is not a maxima. The Framework maintains the Government's objective of significantly boosting the supply of homes. The proposal would contribute towards that objective, however modestly four dwellings would contribute towards the Council's overall housing land supply figures.

24. However, the various, and varying, housing supply figures have not been subject to public examination, whilst the Council's methodology in calculating the wildly varying figures is not before me within the scope of a section 78 appeal. The Housing Delivery Test² indicates that the Council's approach to delivering houses is providing sufficient delivery. Even if I were to conclude that the Council were unable to demonstrate a deliverable 5-year housing land supply, or that it would fall below 5 years imminently, on the basis of the appellant's argument of a rapid downward trend, the adverse impacts arising from the proposal in terms of its impact on the character and appearance of Merrybent and the surrounding countryside would significantly and demonstrably outweigh the limited social and economic benefits that would arise from a small scale development of the nature proposed in this instance.
25. I have noted that there are other factors, including matters relating to the effect of the proposal upon living conditions, access, parking and highways matters, servicing of the site, ecological, ground contamination, flood risk and drainage which are not contested. These weigh modestly in support of the proposal but for the reasons set out the presumption in favour of sustainable development set out at paragraph 11 of the Framework does not therefore apply in this instance.

Conclusion

26. For the reasons set out, and having considered all other matters, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

¹ Appendices 1 to 3 of the Appellant's Statement of Case - Darlington Borough Council 'Five Year Housing Land Supply Position Statement' January, February and April 2019

² 182% - Housing Delivery Test: 2018 measurement - February 2019