

18/00994/FUL Land at Newton Grange Farm, Sadberge, Darlington

Proposal

Erection of 25 dwellings.

NPPF (2018)

Core Strategy 2011

CS1: Darlington's Sub-Regional Role and Locational Strategy

CS2: Achieving High Quality Sustainable Design

CS3: Promoting Renewable Energy

CS4: Developer Contributions

CS10: New Housing Development (parts out of date)

CS11: Meeting Housing Needs

CS14: Promoting Local Character and Distinctiveness

CS15: Protecting and Enhancing Biodiversity and Geodiversity

CS16: Protecting Environmental Resources, Human Health and Safety

CS17: Delivering a Multifunctional Green Infrastructure Network

CS19: Improving Transport Infrastructure and Creating a Sustainable Transport Network

Local Plan 1997

E2: Development Limits

E14: Landscaping of Development

H7: Areas of Housing Development Restraint

Tees Valley Minerals and Waste Development Plan Documents

Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

Planning Obligations SPD 2013

Design of New Development SPD 2011

Comments

Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).

Five year housing land supply position

In relation to housing, the NPPF requires local authorities to plan positively for housing development to meet the needs of their area.

The Ministry for Housing Communities and Local Government have recently announced that Councils should start using the government's new standard method for assessing housing need immediately when determining applications. National Planning Policy Guidance has also very recently been updated to reflect this. Paragraph 30 of the guidance states, housing requirement figures identified in strategic policies should be used as the starting point for calculating the five year land supply figure for the first five years of the plan and where the strategic housing policies plans are more than 5 years old, but have been reviewed and are found not to need updating. In other

circumstances, the starting point for calculating the five year land supply will be local housing need using the standard method. Utilising the local housing need figure for Darlington (122 dwellings per annum), which factors in the latest 2016 household projections, the Council considers that a 48.9 year supply of deliverable housing land can be demonstrated. This being the case, as Darlington Borough Council can demonstrate a five year supply of housing land, relevant policies for the supply of housing should be considered up to date and the titled balance in para 11 of the NPPF (2018) is not engaged.

A 20% buffer has been applied to this figure due to previous under delivery. However, if considered against local housing need of 122 dwellings per annum, delivery has exceeded this figure.

The Council has produced a Five Year Housing Land Supply Position Statement (October 2018) which sets out the housing land supply position for the period 1 April 2018 to 31 March 2023, when measured against the local housing need figure.

It is relevant to note that this housing supply includes a number of sites which are located beyond development limits but have been assessed and are considered as being suitable and deliverable for housing development in the emerging Local Plan.

| Principle of the development

The aim of policy E2 is to direct new development to within the development limits of the village and to safeguard the character and appearance of the countryside. The enquiry site is located beyond the development limits of the village and therefore residential development would be contrary to saved policy E2 (Development Limits) of the Darlington Local Plan 1997 and Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) of the Core Strategy (2011).

Sadberge is not identified as one of the larger service villages in the Core Strategy or the Interim Planning Position Statement. For this reason the site has not been identified as a suitable location for housing development in the Core Strategy or the Interim Planning Position Statement. This is a stance which is to be maintained in the emerging Local Plan. It is therefore considered that the site would be an unsustainable form of development which would be contrary to the development plan.

The Council is of the view that substantial weight can still be attached to policy E2, particularly when a five year supply can be demonstrated, as the policy is consistent with the NPPF (2018) with regards to a number of areas. It is important to note that the age of the policy is irrelevant to its consistency with the NPPF. Paragraph 20 of the NPPF (2018) requires decision-takers to make provision for 'conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructures'. Policy E2 is consistent with the NPPF (2018) to the extent to that it seeks to prevent 'unacceptable harm to the character and appearance of the rural area'.

Policy E2 also seeks to direct development to the urban areas, which are likely to be more sustainable. It is therefore consistent with the core planning principle to "Significant development should be focused on locations which are or can be made sustainable..." (para 103 NPPF 2018). E2 does not provide a blanket protection or impose a blanket ban of certain types of development. There are a number of exceptions to E2 which include rural exception residential development. As such, each case is able to be judged on its own merits according to whether it is an appropriate use in the countryside and whether the development has an unacceptable impact on the character and appearance of the rural area.

Settlement boundaries can be considered out of date when they have been drawn to accommodate a level of growth up to a certain point. This may be the case if the sole purpose of drawing the settlement boundaries was to deliver a certain housing figure. This is not the case for the Darlington 1997 Local Plan as the limits were also drawn to protect the character and appearance of the countryside and to differentiate between the urban and rural areas. As such policy E2 can be attributed substantial weight in the planning balance.

It is also the Council's view that policy CS1 has consistencies with the NPPF (2018) and so can be given weight in the planning balance. The policy sets out the Council's locational strategy for new development, focusing upon the main urban area and the larger service villages of Hurworth, Heighington and Middleton St George. This strategy is to be carried forward into the emerging Local Plan. This approach is consistent with the NPPF (2018) in focusing significant development in locations which are or can be made sustainable. In the same regard as policy E2, CS1 does not result in a blanket restriction on development in the countryside and exceptions are allowed to meet identified rural needs.

A recent appeal decision (ref: APP/N1350/W/18/3207197 Land at Gate Lane, Low Coniscliffe) for residential development supports the Council's approach set out above. In this case the site was located beyond settlement limits at a rural village; the inspector gave substantial weight to policies E2 and CS1 and the appeal was dismissed.

It should also be noted that the proposed scheme does not meet any of the criteria for permitted types of residential accommodation in the countryside as set out in saved policy H7 of the Local Plan. However limited weight should be afforded to this policy as it is not fully consistent with the NPPF.

Other policy considerations

Notwithstanding the above concerns, the site is located in proximity to the Sadberge Conservation Area. Policy CS14 would therefore apply. Comments should be sought from the Council's Conservation Officer. Paragraph 170 of the NPPF, in relation to agricultural land would also apply to the site and policy MWC4 of the Tees Valley Minerals and Waste DPD. Any residential scheme would also be subject to contributions outlined in the Council's Planning Obligations SPD 2013 including a proportion of affordable housing (20%) on site.

Conclusion

To conclude, it is considered that policies E2 and CS1 are not out of date for the reasons outlined above and should be given substantial consideration in the planning balance. The principle of the development is considered to be unacceptable, unsustainable and contrary to the development plan.

Additional comments

With regards to the agent's comments on how the Council monitors housing completions, data is used from building control completions, council tax and NHBC. Officer site visits are also utilised for monitoring. It is considered that this is a robust method to monitor completions and other authorities also undertake a similar approach.

With regards to the sites which are included in the five year supply a Court of Appeal decision is relevant (*St Modwen Developments v East Riding of Yorkshire Council* Case No: C1/2016/2001). The

judgement confirmed that planning permission is not required for a site to be realistically deliverable over the next five years and sites which are allocated in an emerging local plan can be suitable for inclusion in the supply figures. The likelihood that an authority will grant some planning permissions during the period was acknowledged in this decision. The Council is confident that there is clear evidence to include a number of the proposed allocations within the five year supply.

In view of the above, it is considered that the Council is in a position to identify deliverable sites sufficient to provide 5 years' worth of housing against the local housing need figure. It should also be noted that the Council has been granting permissions for residential development on sites beyond development limits, where they have been assessed and are considered to be suitable and deliverable for housing, to ensure a five year supply can be demonstrated.

Rates of delivery within the five year supply trajectory have also been questioned in the planning statement. Site information, which has been informed by developers, and standard assumptions have been used to form the anticipated rates of delivery in the five year supply. It is considered that the trajectory is reasonable and not overly optimistic.

Reference was made in the planning statement to low levels of housing delivery since 2007/08. It was also commented that the Council is likely to fail the housing delivery test when figures are released in November due to insufficient delivery over the previous 3 years.

It is acknowledged that Darlington has experienced low levels of delivery since 2008, due to the economic recession, as have other local authorities. The Council has taken measures to speed up delivery, for example shorter timescales for the implementation of planning permissions. Sites beyond development limits which have been considered suitable and deliverable for housing development have also been approved. Delivery has increased recently with 484 net additional dwellings recorded in 2017/18 and 351 completions have already been recorded for the first two quarters of 2018/19.

Government guidance outlines that the figure used for the housing delivery test will be the lower of either the latest adopted housing requirement or the minimum local housing need figure. Darlington Borough Council would therefore use the lower local housing need figure. This approach has been taken so as to not punish local authorities which are aiming for growth in their Local Plans. The transitional arrangements for the test for the purpose of footnote 7 in the NPPF states, at Nov 2018 delivery would have to fall below 25% of housing required over the previous three years for the tilted balance of paragraph 11 of the NPPF to apply. In view of the above, the Council is confident that the housing delivery test will be passed when the figures are published.

It is acknowledged, in the submitted documents that reference is made to the results of the Housing and Employment Land Availability Assessment (HELAA) 2017. The enquiry site has been assessed as being suitable, available and achievable for housing development in this assessment. It should be noted that this is an initial high level assessment of sites under consideration for allocation in the emerging Local Plan and the outcome of the assessment does not necessarily indicate that the Council would be supportive of development of a site either via allocation or planning application. As it is a high level assessment of sites consideration has not been given to the locational strategy of new development in the new plan and further assessment of sites has been carried out in the Sustainability Appraisal. As such, despite the result of the HELAA, this is not a site which is proposed for allocation in the emerging Local Plan.

As outlined above planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. It is also a core planning principle that

decision-taking should be 'genuinely plan-led'. In a Court of Appeal decision for *Daventry BC v SCLG* 2016 ewca Civ 1146, it was stated that "significant weight should be given to the general public interest in having plan-led planning decisions even if particular policies in a development plan might be old." The Court of Appeal decision highlights that there can be considerable benefit in directing decision-making according a coherent set of plan policies even if they are old, rather than having no coherent plan led approach at all.

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