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## Appeal Decision

Site visit made on 16 February 2016

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

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

Decision date: 21 October 2016

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**Appeal Ref: APP/W0910/W/15/3139345**

**Land adjacent to Long Lane and Newton Road, Dalton-in-Furness, LA15 8XG**

- 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 Derek Barnes against the decision of Barrow-in-Furness Borough Council.
  - The application Ref B07/2015/0516, dated 20 July 2015, was refused by notice dated 3 November 2015.
  - The development proposed is for the erection of residential development for approximately 79 No. Units.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application has been submitted in outline with all matters to be reserved at this stage. Matters related to access, appearance, landscaping, layout and scale are therefore reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted layout plan as indicative only.

### Main Issues

3. The main issues are;
  - The effect of the proposed development on the character and appearance of the area;
  - whether the proposed development has adequately addressed surface water drainage; and,
  - whether, having regard to local and national planning policy, the proposal would amount to a sustainable form of development.

### Reasons

#### *Character and appearance*

4. The appeal site occupies undulating land on the southern fringe of the settlement of Dalton-in-Furness (Dalton), and is comprised of approximately 2.75 hectares of open fields with contiguous boundaries to Newton Road and Long Lane. To the north of the appeal site is a mix of open and garden land associated with individual residential properties, with the denser residential
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development on Barnes Avenue beyond, whilst to the east on the opposite side of Newton Road, is a large established residential development. The land to the south of Long Lane is predominantly comprised of open fields, whilst there is a small cluster of residential properties on the northern side of Long lane adjacent to the south-west corner of the appeal site.

5. The Council has highlighted that the location of the appeal site between the main body of the settlement of Dalton, and Barrow would be contrary to saved Policies D4 and D5 of the Barrow-in-Furness Borough Council Local Plan Review 1996-2006 adopted in 2001 (the Local Plan). It is contended that the scale and density of the proposed development would not accord with these policies as it would compromise an existing designated Green Wedge which provides visual relief and contrast to existing development, as well as resulting in a reduction in the clear separation between Dalton and Barrow.
6. I note that despite the Council's reason for refusal indicating the proposed development to be contrary to the saved Green Wedge policy, the parties have highlighted that the appeal site has been proposed for release for residential development within the Preferred Option Draft of the emerging Local Plan, with an indicative yield of 24 dwellings in clusters. Whilst the emerging Local Plan in this form and at this stage would only attract very limited weight, it would appear that the Council's stance in respect of this land moving forward is that it would in the future be amenable to some form of residential development of the appeal site. In addition, given the disposition of the appeal site between the existing cluster of residential development to the south-west, and further established dwellings to the north and development to the east, I would agree in part with the appellant that despite Policy B3 of the Local Plan being cited by the Council, an appropriate form of residential development of the appeal site could arguably be considered to represent a rounding-off of the settlement.
7. Both the proposal and any future allocation for residential development would have a clear adverse impact on the current designation of the site as part of the Green Wedge. However, I note that the Council has also indicated that in accordance with the Draft Green Infrastructure Strategy which is under preparation to support the new Local Plan, the intention is that the site would be in part retained for green infrastructure purposes. Furthermore, the development would be required to ensure that an adequate setting is retained avoiding the creation of a hard edge to the settlement, as it appeared from my observations to be the consequence of the existing residential development further to the east along Long Lane.
8. I accept that the submitted plans provide only an indicative layout for development of the site. However, I am not persuaded that it would be possible to accommodate the proposed quantum of around 79No. dwellings whilst continuing to uphold the requirements of maintaining either a Green Wedge, or green infrastructure in the context of the emerging policy. Furthermore, given the proposed density of development, it would seem unlikely that the visual effect of the proposal would avoid the creation of an undesirable hard edge to the settlement in the form of either boundary treatment along the road edge or built form. I would also agree that a consequence of the proposed development would be the reduction of the existing gap between Dalton and Barrow, including the visual effect of introducing development towards the western end of the site on open high ground which currently contributes towards that separation. I consider in the

context of the overall size of the appeal site and its location, that its development in the manner proposed would have a moderate adverse impact.

9. On the basis of the submitted evidence and my own observations of the appeal site, whilst I accept that it is likely the site may be developed in some form in the future, the proposed quantum, scale, and density of development would not result in a sympathetic urban form, but would have an adverse effect on the character and appearance of the area. As a consequence, the proposals would not accord with saved policies D4 and D5 of the Local Plan, as the development would compromise the Green Wedge and reduce the clear separation between Dalton and Barrow.

#### *Drainage*

10. The Council has highlighted concerns over the proposed means of drainage of the site, and in particular the conclusion of the Flood Risk Assessment (FRA) submitted with the planning application indicating that the site would discharge into old mine workings as part of the local drainage system. In this respect, the absence of an assessment of the drainage system and its appropriateness to accept surface water drainage from the proposed development has been cited, the latter as a consequence of its identification as a source of surface water flooding, with workings lying in proximity to the aquifer which underlies much of Furness.
11. In response to these concerns and further clarification during the course of the appeal of the Council's case by Cumbria County Council as the Local Lead Flood Authority (LLFA), the appellant has made additional submissions in response in respect of flood risk and drainage. In these submissions, it is contended that an early assessment of the surface water discharges already occurring and requirements for the restriction of increased outfalls from developed land has already been undertaken, with possible alternatives for surface water run-off identified. These are suggested to include the provision of surface water storage on adjoining land off-site and to the south of Long Lane, and substantial reductions in run-off flow rates, particularly at 1 in 100 year.
12. I have had regard to the appellant's contention that the detailed design of roads and drainage system including potential SuDS would occur at the next stage. However, I am mindful that an approval of outline planning permission would establish the principle of the development of the site for residential occupation in accordance with the quantum of development proposed. Even allowing for the fact that all matters have been reserved, it is beholden of the appellant to fully demonstrate that there is a feasible and deliverable drainage solution which would be capable of addressing the requirements for this amount of development. In this respect, I accept that the indicative layout of the development does not show any obvious areas where on-site mitigation could be provided, but that the submissions indicate an off-site solution would be pursued. However, whilst I have noted the appellant's assertion that there is an agreement in place with the adjoining landowner regarding the provision of an area for off-site surface water storage, I have not been provided with any details of such an agreement or that the maintenance of the land for this purpose and in this manner, has been secured in perpetuity.
13. The LLFA have raised a serious concern in this instance, and whilst I note the appellant's argument that these were not raised during the course of the application, the LLFA response to the Council prior to the determination of the

planning application nevertheless raised a number of detailed matters relating to drainage. On the basis of the submissions placed before me, I am not satisfied that matters related to the drainage of the appeal site for the quantum of development proposed have been addressed in sufficient detail to demonstrate with any certainty that there would be an achievable and deliverable drainage scheme to mitigate the impact of the proposed development. Whilst the Council has not highlighted a Development Plan policy in respect of this issue, I find that the proposed development would conflict with paragraph 103 of the National Planning Policy Framework (the Framework), which requires development to not increase flood risk through management of residual risk, and the use of sustainable drainage systems.

### *Sustainable development*

14. Paragraph 6 of the Framework indicates that the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means for the planning system. It further points out at paragraph 7 that there are three dimensions to sustainable development: economic, social and environmental. The three roles are mutually dependent and should not be taken in isolation (paragraph 8). The considerations that can contribute to sustainable development, within the meaning of the Framework, go far beyond the narrow meaning of locational sustainability. As portrayed, sustainable development is thus a multi-faceted, broad based concept. The factors involved are not always positive and it is often necessary to weigh relevant attributes against one another in order to arrive at a balanced position.
15. Economic growth contributes to the building of a strong and competitive economy, which leads to prosperity. The development would have the potential for new investment and long term spending in the local area, as well as the creation of local jobs in the construction industry and business for and jobs in the building supply industry. These support sustainable economic development to deliver the homes, business and infrastructure that the country needs, and which is emphasised particularly in paragraphs 17 and 18 of the Framework. In this respect, the contribution towards house building and economic development should in the short term attract some limited weight.
16. The Council considers that it is able to demonstrate a five year supply of deliverable housing sites, and on the basis of the evidence placed before me, I have no reason to dispute that conclusion. Nevertheless, the provision of approximately 79No. dwellings would make a reasonable contribution to the supply of housing within the Borough, which would weigh in favour of the proposal. I am also mindful that the site occupies a relatively accessible location with good access to public transport and the shops, services and facilities within Dalton itself. The Council has also indicated there to be sufficient capacity available within local schools. These matters would attract some limited social weight in support of the overall sustainability balance.
17. I accept that the proposed development would have the potential to alter the outlook across the open land currently enjoyed by neighbouring occupiers. However, whilst I am mindful that the proposals have been submitted in outline with all details reserved for future consideration, on the basis of my observations of the site and the surrounding land and properties, I am satisfied that it would be possible to develop the site in a manner which would retain acceptable living conditions for neighbouring occupiers.

18. I have also had regard to the Development Plan requirement for the provision of children's play space on the appeal site, with saved Policy G9 of the Local Plan indicating the need for a play area of no less than 400 m<sup>2</sup> for a development of this size. Whilst again I am mindful of the outline nature of the proposals, it is not clear how this level of provision could be accommodated within the site given the proposed quantum of development, as it has not been indicated to be provided on the indicative layout plan. As a consequence, I share the Council's concern as to whether the provision could be achieved.
19. Turning finally to the environmental role, I have already concluded that the proposed development would have an adverse effect on the character and appearance of the area, and that it has not been demonstrated that the proposals have satisfactorily addressed matters related to drainage. However, I note that the Council has accepted that in respect of ecological interests, the loss of the open fields would not have an impact on grassland habitats of any significant nature conservation value, albeit that there would be the potential to incorporate some mitigation within the detailed design.
20. In respect of the access to the appeal site and highway impacts, I note that whilst this would be dealt with in more detail as a reserved matter, the Highway Authority have not raised any objections to the conclusions which have been reached in the submitted Traffic Impact and Transport Assessment. This document has concluded that the level of traffic generated by the development could be accommodated within the local transport network, and whilst I have had regard to the concerns of interested parties, I have no technical basis upon which to conclude that an appropriate access to the site could not be achieved without causing adverse highway impacts.

## **Conclusion**

21. The provision of new dwellings would attract some limited weight in support of the proposed development, and I also consider that the proposals would provide some limited economic benefit as a result of the creation of employment from the construction of the dwellings, and support to existing local services and the economy.
22. The appeal site is situated within an accessible and sustainable location for new development, with good access to public transport, and would not result in an adverse impact on highway safety. I am also satisfied that the proposal would not result in an unacceptable impact on ecological interest on the appeal site. However, by virtue of the scale and density of development of the existing open land, I consider that the proposals would have a significant adverse impact on the character and appearance of the area. Furthermore, the proposed development has not satisfactorily addressed the need for a sustainable drainage solution to meet the requirements of the quantum of development.
23. Overall, and having regard to all other matters raised and the economic, social and environmental dimensions of sustainable development set out in paragraph 7 of the Framework, I am satisfied that the harm that would be caused by the proposal would significantly and demonstrably outweigh the development's benefits. I conclude that the scheme therefore does not represent sustainable development.

24. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

*M Seaton*

INSPECTOR