

DURHAM CITY NEIGHBOURHOOD PLANNING FORUM



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The Planning Inspectorate
Room 3N
Temple Quay House
2 The Square
Bristol
BS1 6PN

Appeal reference APP/X1355/W/18/3197881

Site Address: 51 Sidegate House, Sidegate, Durham, DH1 5SY

I chair the Durham City Neighbourhood Planning Forum. Our Neighbourhood Plan has completed its Regulation 14 consultation and we are currently assessing the comments received and revising the Plan. We are against the appeal proposals. We support the reasons given by Durham County Council in their refusal letter, and wish to make the following additional points:

In order to challenge the Council's grounds for refusing this application, the Appeal Statement (AS) identifies 5 key planning issues (1.06 & 4.02). I shall address each of these in turn.

1. Whether the proposal is inappropriate development in the Green Belt

The AS argues here (4.04) that the NPPF (89) permits development on previously developed land and that the site should be considered previously developed land because Durham County Council (DCC) has assessed it as such in both the proposed County Plan that was withdrawn in 2015 and in the emerging County Plan that is being prepared in its stead. This argument is presented in AS 4.07 which also refers to Appendix 2 of the AS, the DCC officer's report rejecting the planning application.

However, the AS ignores the inconvenient fact that the officer's report also states that neither the withdrawn nor the emerging County Plan can carry any weight in planning terms, precisely because the former has been withdrawn and the latter has not yet reached a significant stage of development. DCC has not yet published its *Preferred Options*; it is not yet in the public domain and cannot be relied upon. The officer's report states:

"Therefore, whilst the council previously set out its position that the site should be removed from Green Belt, this can no longer be relied on and the outcome of the current assessment to inform

the content of the current emerging County Durham Plan is unknown. Until that matter is resolved and the new plan reaches a stage where weight can be attributed to it (if it is indeed in favour of the site being removed from Green Belt), the application must be considered against relevant local plan saved policy and the NPPF.”

AS 4.08 relies on another DCC document to support its case that the proposal site is previously developed land. This is the *Non-Strategic Green Belt Modifications Paper* (October 2013) and it is reproduced in Appendix 6. However, once again this fails to carry weight as the County Plan for which it was prepared was withdrawn. At the Examination in Public many arguments were presented to challenge DCC’s assessment of this site, so even if some weight were to be given to it, weight must also be given to the objections to it. DCC’s judgement was not confirmed and the plan was withdrawn.

Should the *Preferred Options* be published before this appeal is determined, and if as indicated it proposes this site is removed from the Green Belt, we would point out that such a proposal was challenged by objectors when it appeared in the earlier, and subsequently withdrawn, version of the County Durham Plan. This adjustment of Green Belt boundaries would be controversial and success would not be assured. Approving the application would be premature and the future of this site should await the outcome of the full Local Plan process.

2. Whether the proposal would harm the openness of the Green Belt

NPPF 89 includes a proviso about permitting development in the Green Belt on previously developed land. This is that “it would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.”

AS 4.11 admits the obvious fact that the proposed development of 8 townhouses is larger in scale than the current Sidegate House, but argues that the “openness of the Green Belt **as a whole** would be unaffected”. I have added the emphasis because the addition of the phrase “as a whole” significantly changes the meaning of the NPPF which does not include this qualifying phrase. Any development would have to be very large indeed to affect the openness of the Green Belt **as a whole**.

It is not a question of the impact of the proposed development on the openness of the Green Belt **as a whole**. This development would affect the openness of the Green Belt at a sensitive location on the edge of it so that people approaching from the historic Crook Hall to the east or down the ancient cobbled street of Sidegate to the west would be presented with a row of 8 modern townhouses rather than see green hedgerows and trees.

AS 4.11 glosses over the second part of the proviso in NPPF 89, namely the fact that development should not have a greater impact on “the purpose of including land within it than the existing development.” AS 4.11 simply asserts that “there is no conflict with the five purposes of the Green Belt” and presents no justification to support this. It certainly encroaches into the countryside (purpose 3) and harms the setting and special character of the lower part of Sidegate, a historic street in a conservation area (purpose 4).

Furthermore, AS 4.12 & 4.13 appeal once again to the withdrawn County Plan and the *Non-Strategic Green Belt Modifications Paper* to support the case that the development would not harm the openness of the Green Belt. We have already shown that these documents can carry no weight when assessing planning applications.

3. Whether there are any very special circumstances if the development is considered to be inappropriate in Green Belt terms

AS 4.16 puts forward what it considers to be the “very special circumstances” required by the NPPF to justify inappropriate development in the Green Belt. Six points are made and I address them in turn.

1. DCC has judged that the site should be removed from the Green Belt:

This again relies on the withdrawn County Plan and carries no weight.

2. DCC still considers that the site should be removed from the Green Belt:

This again relies on the emerging County Plan and also carries no weight.

3. The proposal has no implications for the five purposes of including land in the Green Belt:

This simply repeats the unjustified assertion made in AS 4.11 and does not constitute the “very special circumstances” required by the NPPF which requires **ALL** developments to avoid offending against the five purposes of including land in the Green Belt. This proposal certainly offends against purposes 3 & 4.

4. The proposal will contribute to the objective of sustainable development:

Even if this were true, it would not constitute the “very special circumstances” required by the NPPF which requires **ALL** developments to be sustainable.

5. The proposal will contribute to the Council’s 5 Year Housing Land Supply:

This argument relies upon a recent Inspector’s decision from September 2017 (APP/X1355/W/16/3165490) attached at Appendix 8, which concluded at para 58 that ‘the Council is likely to have an appreciable housing shortfall over the next 5 year period’. Firstly, the inspector notes that that this shortfall is only **likely**. The matter is open to further consideration as explained in the DCC officer’s report set out in Appendix 2:

“Given that the most up to date OAN methodology is contained within a consultation draft only and the very recent publication of that document, the Council is yet to formalise its position on the issue of 5 year land supply. In the interim period until it does so, it is considered that the three scenarios identified in the Issues and Options stage can no longer be relied upon and accordingly, the weight to be given to any benefits a housing proposal might have in terms of the boost to housing supply ought to be less than if the Council were

to continue to rely upon the Issues and Options scenarios where a 5 year supply could not be demonstrated.” (Page 8 of DCC report)

Further, the Inspector’s decision from September 2017 set out in Appendix 8 also stated at para. 40 that the “weight to be given to a proposal’s benefit in increasing the supply of housing will depend on...how much of the deficit the proposed development would meet.” Given that the same Inspector concluded in para 115 that the shortfall over the next 5 years could be between 1,100 and 1,940, a development of 8 houses would not make a significant contribution to this shortfall.

6. The proposals are in accordance with DCC policies:

The fact that the proposals might be in accordance with DCC policies does not constitute “very special circumstances”. Surely **ALL** development proposals must be in accordance with these policies.

4. Whether here are any other material considerations

AS 4.17 argues that, just as the 2005 application to erect a new dwelling at Sidegate House was considered to be a superior design, so the current application to demolish Sidegate House and erect 8 townhouses should also be considered a superior design. Firstly, the two applications are not comparable as the 2005 application involved the replacement of one family dwelling with another whereas the current application involves the replacement of one family dwelling with 8 townhouses. Secondly, the issue of the quality of the proposed design is not material to the grounds for DCC’s refusal of the current application.

5. Whether the proposal is contrary to Part 9 of the NPPF and to Local Plan Policy E1

AS 4.18 states that Local Plan Policy E1 is considered to be out-of-date as it predates the publication of the NPPF. This oversimplifies the case. DCC’s *City of Durham Local Plan: Consistency of Saved Policies with National Planning Policy Framework and Guidance* (July 2015) concluded that E1 was **partially** compliant with the NPPF, not that it was out-of-date. Its assessment comments that “Recent appeal decisions have confirmed that this saved policy is still relevant” (Page 13). It goes on to say that the NPPF admits of a wider range of exceptions than E1 and that it is why it is only partially compliant, but these wider exceptions are not relevant to the present appeal.

The AS goes on in 4.19, 4.20 & 4.21 to argue that the proposed development would not affect the openness of the Green Belt as a whole, calling in aid once again DCC’s view that the removal of this site from the Green Belt would not affect its openness. This argument was countered in Section 2 above.

AS 4.22 further asserts that “a redevelopment of the site would not harm openness and the appeal proposal is therefore not inappropriate in Green Belt terms. The Council reached the same decision in 2015 (sic) in approving a larger house than the existing property”. Leaving aside the fact that the decision referred to was in 2005, not 2015, the two decisions are not comparable. The

2005 application involved the replacement of one family dwelling with another whereas the current application involves the replacement of one family dwelling with 8 townhouses.

The DCC officer's report set out in Appendix 2 expresses concerns about the scale of the proposed development in relation to its setting:

"There is some concern in respect of the present scale of the proposed townhouses. Being up to 5 storeys at their greatest extent they would appear excessive in the context of the nearby 2-storied terraced housing creating an uncomfortable relationship. It is however accepted that due to the split levels the dwellings would appear lower than this and would be viewed in the context of the Radisson Hotel. In addition, there is some concern that within the context of the narrow lane the development would appear disproportionate and dominant, this effect would be apparent in views westwards from the open area around the Frankland Lane / Waterside junction. The proposed belvederes would further compound the impact projecting above the main ridge line representing obtrusive features in the roofscape.

"The applicant has been advised to amend the plans accordingly given that there are some concerns regarding the design, scale and massing but has chosen not to do so." (Page 12)

CONCLUSION

The Appeal Statement has failed to justify why the decision of the Council to refuse the application should be overturned.

In addition to the objections set out above, it is important to note what the NPPF says in para 89 about the exceptions to inappropriate buildings in the Green Belt. Other things being equal, it would permit "the extension or alteration of a building provided that it does not result in disproportionate additions **over and above the size of the original buildings**" and it would permit "the replacement of a building provided that the new building is **in the same use and not materially larger than the one it replaces.**" I have added the emphases because the proposed development in Sidegate would offend against all of these restrictions.

Yours sincerely



Roger Cornwell
Chair, Durham City Neighbourhood Planning Forum