

Eden District Council

**Planning Committee
17 January 2019**

Appeal Decision Letters

Report of the Deputy Director Technical Services

Attached for Members' information is a list of Decision Letters received since the last meeting:

Application Number(s)	Applicant	Appeal Decision
17/0805	<p>Mr David Nicholson Land between Melrose Cottage and Greta Cottage, Cliburn</p> <p>The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.</p> <p>The development proposed is outline application for residential development with all matters reserved.</p>	<p>The appeal is dismissed.</p>

Jane Langston
Deputy Director Technical Services



Appeal Decision

Site visit made on 16 July 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2018

Appeal Ref: APP/H0928/W/18/3201283

land between Melrose Cottage and Greta Cottage, Cliburn

- 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 David Nicholson against the decision of Eden District Council.
 - The application Ref 17/0805, dated 18 September 2017, was refused by notice dated 21 December 2017.
 - The development proposed is outline application for residential development with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. I have noted the content of the planning application form¹ which refers to the proposal as being for 10 dwellings of unspecified bedroom numbers, and of **the 'As proposed indicative site layout' plan**² which suggests how 10 dwellings could be accommodated within the appeal site. The indicative site layout plan also suggests that the site could be accessed by two cul-de-sac access roads with turning heads, one located between Greta Cottage and Melrose Cottage, and the other between Gaythorne and the site's southern boundary. It is clear to me that the Council considered **the 'proposed indicative site layout plan' to be indicative**, and that all matters of detail were reserved. So too, shall I.
3. Since the Council reached its decision and the appeal was made, a revised version of the National Planning Policy Framework (the Framework) has been published. The main parties have been invited to make comment on the implications of the Framework where relevant for their respective cases and I have taken their responses into account in reaching my decision.
4. **The Council's** refusal reasons refer to policies in the adopted Eden District Council Core Strategy 2010 (CS) and to the emerging Eden District Local Plan (EDLP). I am advised that the EDLP has been subject to examination and both parties refer to it as being at an advanced stage, although I have not been advised that it has yet been formally adopted by the Council. Nonetheless, it is clear that both parties consider it to be at an advanced stage and may be given weight accordingly, and I have therefore determined the appeal as such.

¹ Application form section 9. Residential Units

² Drwg No: 117-150-003A

5. A planning obligation (s106) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) (the Act) has been submitted with the appeal. The s106 obliges the payment of a commuted sum, at a defined point of the development, as a contribution towards affordable housing for local occupancy. I will return to this matter later.

Main Issue

6. Although the application was refused for three reasons it seems to me that those reasons can be condensed to one main issue for the purpose of this appeal; namely the effect of the proposed development on the character and appearance of the surrounding area, with reference to both the settlement of Cliburn and the surrounding countryside.

Reasons

7. Cliburn is a small village set amongst rolling countryside. The EDLP identifies **Cliburn as a 'Smaller village and hamlet' at policy LS1**. That policy goes on to state that development of an appropriate scale which reflects, amongst other factors, the existing built form of the settlement and of adjoining and neighbouring development to the site will be permitted within such smaller villages and hamlets to support diverse and sustainable communities. Both EDLP policy LS1 (in respect of greenfield sites) and CS policy CS2 seek to limit development to that which meets an identified local need.
8. Together, EDLP policy DEV5 and CS policies CS16 and CS18 seek to secure and support high quality design that reflects local distinctiveness, shows a clear understanding of the form and character of the built environment and reflects the existing streetscene and the quality of the surrounding countryside. In this respect, they reflect the broad principles of EDLP policy LS1 in terms of seeking development of an appropriate scale, form and layout to its surroundings.
9. The village radiates out from a crossroad junction in a broadly linear, but slightly uneven, manner following the four points of the compass. This pattern of development is, I saw, particularly pronounced in a southerly direction towards the appeal site. **The appeal site is situated on the southern 'spur' road from the crossroads.** This leads gently downhill past the appeal site and towards the church and complex of farm buildings that mark the southern extent of the village. Beyond, the road drops down more steeply and crosses a river before climbing the wooded valley side and heading into open countryside. However, although the built form generally radiates in a linear manner from the crossroads, I also saw more recent development at **Fallowfield (northern 'spur') and Leith Close ('eastern spur')**, which provide exceptions to the general rule.
10. The appeal site comprises an area of undeveloped pasture which, at the time of my visit, was being grazed by livestock. The site effectively wraps around the existing dwellings of Melrose Cottage and Gaythorne, and has two lengths of street frontage along its western boundary; the longer of the two between Great Cottage and Melrose Cottage and the other between Gaythorne and the buildings to the south. The site is broadly triangular in shape, **the site's rear (eastern) boundary following an existing stone wall in a gentle curve from the south towards, and ultimately beyond, the site's northern boundary. A public right of way runs along the site's eastern boundary, broadly following the line**

of the stone wall, linking the southern 'spur' road with Leith Close and the eastern road to the north.

11. The appeal site is of significant depth, extending a considerable way back from the street frontage, distinctly so in comparison to the plots on either side of it. I have not been directed towards any defined settlement or development limit boundaries for Cliburn, and note the **divergence in the parties' views regarding** whether the site is within and part of the settlement, or in the open countryside. **Certainly, the site's open frontage and pastoral appearance bring** the surrounding countryside into the settlement, although I also have some **sympathy with the appellant's view that the appeal site lies within, and is** clearly part of, the settlement.
12. However, whilst **the site's frontage relates well to the properties on either side** of it, and the wider streetscene, its substantial depth sets it significantly and incongruously at odds with those around it. Although the site layout plan is indicative, the proposal for up to 10 dwellings would inevitably introduce a significant depth of built development within the site in a manner that would not be typical of its immediate surroundings.
13. Whilst it is not argued that the proposal would constitute an infill form of development, the appellant avers that it would, in making reference to EDLP **policy LS1, amount to 'rounding off' development. EDLP policy LS1 describes 'rounding off' as development which 'provides a modest extension beyond the** limit of the settlement to a **logical and defensible boundary'. In their** statement, the Council expand on this, stating that they consider that logical and defensible boundaries would be landscape features that would prevent the expansion of development. Examples given include roads, rivers, railway lines, woodland or significant rise or fall in the topography of the area.
14. As already described, the appeal site extends, on its curving eastern boundary, to a stone wall. The stone wall continues in a northerly direction, forming the eastern boundary line of an agricultural pasture to the north, before linking up with the eastern boundary of Leith Close. This, the appellant argues, constitutes both a logical and defensible boundary to the settlement. Logical, because it aligns with the boundary of Leith Close, and defensible because the wall is a distinctive and substantial feature of the site boundary, and characteristic of field boundaries within the surrounding landscape.
15. To an extent, I agree. The site boundaries are clear and distinct physical features, not notional lines on a map or across an open field where presently there is no form of boundary or demarcation. However, CS policy CS18 and EDLP policies LS1 and DEV5 are equally clear in that proposals should reflect local distinctiveness, demonstrate a clear understanding of existing built form and reflect the existing streetscene.
16. The proposal would not, notwithstanding that all matters of detail including scale, layout and appearance are reserved at this stage, achieve this in my judgement. The site is of a scale and form, relative to those around it, that would bear no resemblance to the scale, form or size of other developments within the village. By allowing for built development to extend significantly beyond the rear of adjacent properties on the eastern side of the southern road frontage, the proposal would overwhelm the scale and grain of much of Cliburn and would be inconsistent with the predominantly well defined, linear, form of the settlement.

17. Much is made of the proposal's eastern boundary aligning with the 'defensible' stone field boundary wall. As this continues towards Leith Close it is argued **that the site's development would allow the 'rounding off' of the eastern edge** of the village. However, to make that link is to misunderstand the relationship between the various roads leading out from the centre of the village.
18. The appeal site is some distance down the southern road, away from the crossroad junction at the centre of the village. It shares no context or direct **relationship with Leith Close, or indeed the prevailing linear 'ribbon' form of** development along the eastern spur, Leith Close and the stone wall notwithstanding. This, **rather than 'rounding off' the settlement, the proposal** would instead give rise to an awkward and incoherent transition between the village and surrounding countryside, eroding the relatively simple and clear demarcation between the two. When seen in the context of the pasture to the north and its relationship with the farm buildings to the south, the proposal would be a significant incursion into the countryside.
19. Thus, the proposal would fail to respond to the prevailing settlement form and built character of Cliburn, introducing development within the appeal site in a form and manner wholly at odds with the prevailing character and form of Cliburn. As well as failing to respond positively to the predominant character or form of the settlement, **the appeal site's depth relative to the adjoining** buildings and plots would result in an incongruous and harmful incursion into the open countryside beyond the built extent of the settlement.
20. I do not therefore consider that the proposal would amount to the rounding off of the settlement in the manner envisaged by EDLP policy LS1. Rather, it would amount to an incongruous and harmful incursion into the open countryside beyond Cliburn which, in the case of the appeal site, adds to the **village's rural** setting. I accept that neither the village, nor the countryside and wider landscape around it within which it sits, are covered by any statutory **designation to protect their character or appearance. However, the village's** built form contributes significantly to its character and appearance, and its setting within the surrounding countryside, the provisions of both the CS and EDLP seek to protect that and to secure development that responds positively thereto. The proposal would thus fail to deliver development of the type, or in the manner, sought by CS policies CS2, CS16 and CS18, and EDLP policies LS1 and DEV5.
21. A planning obligation (the s106) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended)(the Act) was submitted as part of the appeal. The submitted s106 is, however, in draft form and is undated and unsigned. Moreover, whilst I appreciate that the application was submitted in outline form only with all matters reserved for subsequent consideration and that therefore the main parties seek a degree of flexibility with the s106, the basis of the calculations for what would be payable under the s106 is not clear. Thus, as the s106 is in a draft, unsigned and undated form, I cannot give its provisions any weight in my consideration of the appeal.
22. There is broad agreement that, once formally adopted, the EDLP would allow the Council to be able to demonstrate housing supply in excess of 5 years. I understand that the EDLP has now reached an advanced stage of preparation and **that no further changes are anticipated regarding the Council's housing**

- land supply position. In this respect I am able to ascribe substantial weight to its provisions though it has not yet been formally adopted.
23. Nonetheless, I have not been advised that, at this time, the EDLP has been formally adopted by the Council. As a material consideration, the Framework³ states that there is a presumption in favour of sustainable development at the heart of the Framework. The implications for decision-taking are set out at paragraph 11(c) and (d) of the Framework.
24. The proposal would make a contribution towards the supply of housing where currently there is not a 5-year housing land supply. Even if it were to be the case that the anticipated housing supply position of the EDLP comes to pass following its adoption and a 5-year housing supply could be demonstrated, the **proposal would nonetheless contribute towards the Government's objective**, expressed at paragraph 59 of the Framework, of significantly boosting the supply of homes. In this respect, the provision of up to 10 homes would have social and economic benefits in terms of contribution towards facilities in the nearby villages of Morland and Temple Sowerby.
25. Given the outline nature of the proposal and with all matters reserved for subsequent approval, I note that the Council have not objected to the proposal in terms of living conditions of occupiers of adjoining properties, highway safety, ground conditions, drainage and archaeology. Whilst I have carefully considered the objections to the planning application from interested parties, from what I have seen and read I have no reason to reach a different conclusion to that reached by the Council in these respects. However, I do not consider that a lack of harm in these respects amounts to a benefit of the proposal.
26. However, without a robust mechanism before me to secure a proportion of the homes for people with local connection, the social benefits of the proposal are limited and this counts against the proposal. Taken with the harm to the character and appearance of the surrounding area and the setting of Cliburn within the pleasant, rolling pastoral landscape within which it lies, the adverse impacts of the proposal that would arise from the granting permission would clearly, significantly and demonstrably outweigh the modest benefits of the proposal.
27. The proposal would fail to reflect the built form of Cliburn, the character and appearance of adjacent and neighbouring development to the site or the **streetscene as a whole**. **The manner of the proposal's incursion into the open countryside beyond the existing built extent of Cliburn would also cause harm to the character and appearance of the surrounding countryside and Cliburn's setting within it**. Thus, the proposal would fail to deliver development of the type, or in the manner, sought by CS policies CS2, CS16 and CS18, and EDLP policies LS1 and DEV5.

Conclusion

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

Graeme Robbie INSPECTOR

³ Paragraph 10