

## Appeal Decision

Site visit made on 12 November 2015

by **Helen Heward BSc Hons MRTPI**

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

Decision date: 27 July 2016

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**Appeal Ref: APP/E2001/W/15/3131833**

**OK Nurseries and Garden Centre, Ferriby High Road, North Ferriby, HU14 3LA**

- 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 Grand Dale Garage Limited against the decision of East Riding of Yorkshire Council.
  - The application Ref DC/15/00455/OUT/WESTES, dated 11 February 2015, was refused by notice dated 28 May 2015.
  - The development proposed is described as 'new residential infill development following demolition of outbuildings, greenhouses etc'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have taken the description of development from the application form but omitted the words '*on former OK Nurseries and garden centre*' as this information is in the site address.
3. The planning application for 27 dwellings was made in outline with all matters reserved. I have considered the illustrative drawings and other information about layout, design, access, dwelling types and sizes, and topographical details as informative only.
4. The Council received the Inspector's Report on the East Riding Local Plan (ERLP) Submission Strategy Document (SSD) on 25 January 2016 and the SSD was adopted in April 2016. The Inspector's Report on the Submission Allocations Document (SAD) was received on 13 June 2016.
5. The appellant and Council were given opportunities to comment on the implications of these matters in relation to planning policy and this appeal. Their comments have been taken into consideration in my decision.

### Main Issues

6. The main issues in this case are (i) the effect of the proposal upon the character and appearance of the site and locality, (ii) whether the proposal represents a sustainably located development.
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## Reasons

### *Policy context*

7. The National Planning Policy Framework (Framework) seeks to boost significantly the supply of housing and indicates a presumption in favour of development if it can be judged to be sustainable. Economic, social and environmental gains should be sought jointly to achieve sustainable development (paragraph 8).
8. At the time I visited the site the development plan comprised the Beverley Borough Local Plan (1996) (BBLP) and the Joint Structure Plan for Kingston upon Hull and East Riding of Yorkshire (2005) (JSP). The Inspector's Report on the SAD had not been issued and there were outstanding objections and issues regarding allocations, including for North Ferriby. Later, the Council drew my attention to paragraph 50 of the SSD Report where the Inspector found that the approach to defining development limits was overall a wholly reasonable and satisfactory approach and "*As such, the development limits shown on the Policies Map ensure that Policies S3 and S4, and the plan as a whole, are justified and effective in this respect.*" Subsequently, the Inspector found the SAD to be sound. At paragraph 124 of the SAD Report the Inspector states that he was not persuaded that any of the alternative sites in North Ferriby, which he considered, were more appropriate than the proposed enlarged FER-B allocation as modified.
9. The Council has recently adopted the SSD with the Inspector's recommended modifications and it now forms part of the development plan and so the policies attract full weight. Appendix A of the SSD also confirms that a significant number of BBLP and JSP policies have been superseded and therefore attract no weight in this decision. These include Policies E2 and E3 of the BBLP and DS4 and H7 of the JSP.
10. SSD Policy S3 defines a 'Settlement Network'. It seeks to locate development where there are services and facilities and where it can be served sustainably. It also identifies North Ferriby as a Primary Village in the Settlement Hierarchy. Residential development, including affordable housing, commensurate with the scale, role and character of the village will be supported in these locations. SSD Policy S4, amongst other things, supports development in villages and the countryside that helps maintain their vibrancy subject to a number of criteria, including that development does not compromise the general approach set out in Policy S3 to deliver a sustainable pattern of development. I attach significant weight to Policies S3 and S4 of the adopted SSD.

### *Character and appearance*

11. The appeal site lies at the western end of a ribbon of development on Ferriby High Road. The access is situated between the Grand Dale Garage and No 131 High Ferriby Road. The majority of the site is behind the garage and No's 125, 127, 129 and 131. In the vicinity of the appeal site development occurs only on the south side of the road and is predominantly characterised by low density residential development, with open countryside to the north, south and west. The most easterly boundary, marked by a hedgerow, adjoins a track and beyond this is an area of predominantly two-storey dwellings, situated toward the front of plots and with long back gardens. I was shown a site off this track where a single dwelling has been approved (APP/E2001/W/14/2214364). A

- dwelling at a mushroom farm and a holiday let dwelling to the south east were also pointed out.
12. I found these to be exceptions and not typical of the general form and character of development in this locality. Like the Inspector who considered an appeal for a dwelling in the rear garden on 125 Ferriby High Road (APP/E2001/A/14/2228816), I found the overall character and appearance is of a linear ribbon of low density residential development with a large expanse of open/undeveloped land to the rear of the dwellings which reinforces the countryside character and appearance.
  13. In the SSD the closest defined settlement is North Ferriby, approximately 0.8km due west. The site and adjacent ribbon development are neither within nor adjacent to the built up area of the village. The site is clearly divorced from the village by open countryside.
  14. On the appeal site there are a number of dilapidated buildings and glasshouses from the former nursery and garden centre. A single glasshouse in the centre of the site marks the southern extent of development. Beyond, and to either side, the site is largely undeveloped up to the boundary hedgerows. The nature and apparent former use of most of the buildings and the extent of undeveloped land, give the site a rural character and appearance which relates more to the open countryside than to the ribbon of development fronting the road. I also agree with the Inspector's finding in appeal case APP/E2001/W/14/2214364, that the hedgerow and track provide a clear demarcation and the area to the west of it, where the site I am considering lies, has a more open countryside character and appearance.
  15. Rather than appearing as a form of infilling the development would be seen to be predominantly behind and beyond the existing ribbon of development in the countryside. Although views were partially restricted on my visit I found that the site is visible from viewpoints, including the public byway to the west, Ferriby High Road and higher ground to the north. The scale, height, lightweight materials and appearance of the existing buildings and glasshouses mean that they do not appear prominent in the views. Although disused they are not a visual detractor.
  16. In the available views the proposed 27 predominantly two-storey dwellings, would have the character and appearance of a small residential estate and of an in-depth development encroaching into open countryside. In some views the angle and degree of elevation of the viewpoints mean that buildings on Ferriby High Road would not significantly screen the development. Overall I find that the proposed development would be significantly more prominent in views than the existing buildings.
  17. The illustrative layout indicates that access could be provided between existing frontage development with all but one dwelling located to the rear of the garage and the back gardens of No's 125, 127, 129 and 131 Ferriby High Road. Save for an area for children's play, development would extend across the whole of the red line area and up to the site boundaries. Although the information is only indicative I have no doubt that to achieve 27 dwellings with a mix of sizes and types it is a fair indicator of the extent of development that would be likely. Development could follow the contours of the land, falling away to the south and the extent of development down the slope would be limited to that of the existing southernmost glasshouse. The land to the south

would be retained as open land. Some first floor or upper level accommodation could be provided in roof spaces with dormer windows limiting their height.

18. I have been mindful of the dwelling to be built on a site off the adjacent track (APP/E2001/W/14/2214364) and that the appellant informs me a 4 bedroom property is to be built to the south of that site (LPA ref DC/12/04643/PLF). But they would be beyond the hedgerow and track to the east of the appeal site.
19. The Framework requires due consideration to be given to the recognition of the intrinsic character and beauty of the countryside. The Council's Tree and Landscape Officer did not raise any objections. The landscape quality in this locality is assessed as 'ordinary with a number of detractors' and the overall sensitivity to further detrimental change as a result of development is 'low' in the Council's East Riding Landscape Character Assessment (2005) (LCA). But that is not to say all development would not be harmful. I am not persuaded that a landscaping scheme could satisfactorily mitigate the impacts or integrate the development, of the scale proposed here, into the surrounding landscape, or that the proposal would result in an overall enhancement or positive contribution to the character and appearance of the locality.
20. I conclude that the development would not integrate with the existing pattern and form of settlement in the locality and would appear as a discordant and incongruous element within the landscape, and cause significant harm to the character and appearance of the site and locality. It would fail to comply with a requirement of SSD Policy ENV1 that development has regard to the specific characteristics of the site's wider context and the character of the surrounding area.

#### *Sustainably Located Development*

21. The SSD identifies North Ferriby as a sustainable location for growth and an area in which residential development should be focussed. North Ferriby provides a range of services and facilities including a primary school, village hall, playing fields, train station, post office, shops and other services. Development limits may yet change but the distance from the appeal site to the services and facilities within the village would not change. Some of these are at a distance of between approximately 1km and 1.5km from the appeal site. The route to reach the village by foot or cycle ride would be alongside the unlit Ferriby High Road, and largely through open countryside.
22. I walked along the roadside path which is approximately 1.8m wide. At times there was little sight of development. It felt remote and there was little by way of natural surveillance. My visit was on a sunny day, just before lunch time. During hours of darkness, times of low daylight or inclement weather I do not think that this route would feel convenient, attractive or safe. I concur with the Inspector's conclusion in appeal case APP/E2001/A/14/2228816 that there is a significant likelihood that occupiers would choose to use their cars for such journeys.
23. The site is in the Beverley and Central sub area and Chapter 10 of the SSD recognises the strong relationship between the sub area and the City of Hull and identifies the site as being on a Core Bus Route, with North Ferriby also having a Rail Station. In this way the proposal could reduce reliance on private cars and support the retention of the existing modes of transport which already serve the area. The residents of the dwellings would be likely to use services

and facilities in North Ferriby and in that way would help maintain or enhance the vitality of the village.

24. In appeal case APP/E2001/A/14/2228816 the Inspector found that the availability of other options meant that the sustainability "did not weigh against the proposal" and in appeal case APP/E2001/W/14/2214364 the Inspector found that approximately 1km from that site to the local services represented only a relatively short walk or cycle ride for a relatively able-bodied person. However, the scheme I am considering is for 27 dwellings which would generate a much more significant level of movement than the single dwellings in the appeal cases that the appellant refers to. It is also reasonable to assume that the dwellings would provide for a mixed community including families with infants and children, older people and the less able.
25. I conclude that there is a significant likelihood that occupiers would choose to use cars for journeys to reach local services and facilities in North Ferriby, including the primary school and train station. For a mixed development of 27 dwellings the site would not have well integrated sustainable connections. Notwithstanding other positive sustainability attributes, overall the proposal would fail to create a development where sustainable modes of transport would be maximised.
26. As such, the proposal would not represent a sustainably located development. The proposal does not fall within the provisions of SSD Policy S3 or the aim of Policy S3 to locate development where there are services and facilities and where it can be served sustainably. Nor does it comply with the requirement of SSD Policy S4 A.1. that outside of the 'listed' settlements new development will be supported where it is of an appropriate scale to its location taking into account the need to support sustainable patterns of development.

### **Other Matters**

27. Within the countryside SSD Policy S4.A.2. prioritises the re-use of suitable previously developed land and that which does not involve a significant loss of best and most versatile agricultural land. SSD Policy S5(G) seeks to ensure that at least 20% of new dwellings should be built annually on previously developed land. The nursery business has closed and the site has fallen into disuse. I am informed that the Council invited the appellant to submit land within the appeal site for inclusion on the Council's brownfield register and the appellant refers to the Housing and Planning Act 2016.
28. I am also informed that a certificate of lawful use for a garden centre and ancillary retail sales has been issued (LPA ref DC/10.00271/CLE) and that planning permission has been granted for the relocation of the Grand Dale Garage business onto the appeal site together with the redevelopment of three houses on the garage site (LPA ref DC/14/03419/OUT).
29. The proposal would result in the reuse of this brownfield site and there is no evidence that it is of high environmental or agricultural value. However, there are options available for its future use, and together with other concerns regarding the unsustainable location of the site, the weight I give to the reuse of previously developed land in this case is limited.
30. The indicative layout indicates a density of approximately 30 dwellings per hectare. There is no evidence to suggest negative impacts in respect of

- archaeology, designated historic assets or designated areas of landscape value. But these are neutral in effect, not reasons in favour. The application is in outline and details including, layout, highway design, play space, appearance, sustainable design and energy efficiency, residential amenity, overlooking and landscaping are not for consideration.
31. I am informed that the site is available, the development would be viable and that it would meet local market requirements. The 27 dwellings would contribute towards the need to boost the supply of housing, the local housing market and the need to provide much needed housing for present and future generations. It would deliver affordable housing and could provide a mixed residential development of sustainably constructed dwellings suitable for a range of occupants.
32. The development would satisfy the requirements of SSD Policies H1 and H2 in so far as contributing to the overall mix of housing and the provision of affordable housing, taking into account current need, demand and existing housing stock and the Local Plan Strategy. It could be delivered within the next five years, and if so it would also make a valuable contribution to the delivery of 'windfall' houses in the SHLAA. Economically the development would make a contribution to economic growth during construction and after from the activities of the occupiers. I attach a significant amount of weight in favour of these economic and social gains.
33. The appellant argued that the 7.3 year supply of housing land in the Council's Strategic Housing Land Availability Assessment (SHLAA) could not be provided and referred to appeal decisions concerning the five year housing land supply<sup>1</sup> and SSD Policies S3 and S5<sup>2</sup>. They also referred to a note provided by the Council to North Ferriby Parish Council regarding the housing requirement for Swanland and North Ferriby. Circumstances regarding the development plan have since changed and there is scant evidence to enable me to conclude that the SHLAA supply is undeliverable, or that the Council cannot demonstrate a five year supply of deliverable housing sites.
34. Information about the comparative distances between the site and other potential residential locations on the edge of North Ferriby indicates that in distance they are all very similar, and that the appeal site is, in some cases, closer to facilities. However it is not the purpose of this S78 appeal to evaluate sites put forward through the local plan process or to consider this proposal against them and I attach very little weight to this matter.
35. SSD Policy S5 recognises that the delivery of the housing requirement will in part be met through windfalls, by the determination of planning applications. Given my earlier findings regarding the location of the site in relation to North Ferriby, I attach only limited weight to this.
36. As I have already found that the proposal would cause harm to the character and appearance of the locality I am not persuaded by the argument that the proposal is not precluded by the list in Policy S4.C.

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<sup>1</sup> The Lakeminster redetermination APP/E2001/A/12/2185323, APP/E2001/C/12/2187313, APP/E2001/C/12/2187403, APP/E2001/C/12/2187321 and APP/E2001/C/12/2187407

<sup>2</sup> Melton Park APP/E2001/A/2200981 and APP/E2001/14/2213944

37. I have taken into account all of the appeal cases referred to me. In respect of those in the immediate locality, I find that they all concern small developments and as such are significantly different to the proposal I am considering.

### **Conclusions**

38. The development of 27 dwellings would not integrate with the existing pattern and form of settlement in the locality. It would appear as a discordant and incongruous element within the landscape and cause significant environmental harm to the character and appearance of the site and locality. The proposal would be contrary to requirements of SSD Policy ENV1 advice within the Framework which, amongst other things, includes that development should respond to local character and add to the overall character of the area and integrate into the natural and built environment.
39. The location of the development and the route to reach local services and facilities in North Ferriby would fail to facilitate walking and cycling and sustainable access. Therefore the proposal would not represent a sustainably located development and it would compromise the delivery of a sustainable pattern of development, contrary to the development strategy of the SSD and requirements of SSD Policies S3 and S4. It would also be contrary to advice in the Framework for providing a supply of housing which, amongst other things, has accessible local services.
40. The proposal would include some significant benefits including the reuse of a brownfield site, contributing to the overall mix of housing, provision of affordable housing and the delivery of 'windfall' houses in the next five years. The development and future occupiers would also make a contribution to economic growth. Existing modes of transport could reduce reliance on private cars and residents of the dwellings could use and support the retention of local public transport facilities and services and facilities in North Ferriby.
41. Nonetheless the proposal is contrary to provisions of the development plan, does not amount to sustainable development and, mindful that this is a proposal for a development of 27 dwellings suitable for a range of households, the harms significantly and demonstrably outweigh the benefits to be gained. Accordingly, and having taken all other matters raised into consideration, the appeal is dismissed.

*Helen Heward*

PLANNING INSPECTOR