



Appeal Decision

Site visit made on 4 April 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 8th May 2017

Appeal Ref: APP/N2739/W/16/3164906
Land at Weeland Road, Hensall DN14 0QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Messrs Stevenson and Padgett against the decision of Selby District Council.
 - The application Ref 2015/1089/OUT, dated 28 September 2015, was refused by notice dated 16 June 2016.
 - The development proposed is residential development up to 33 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the heading above is taken from the original application form. It was agreed during the course of the application that the description of the proposal be amended with the number of dwellings reduced from up to 33 dwellings to up to 24 dwellings. The Council's description on the decision notice reflects this. I have therefore dealt with the appeal on that basis.
3. The application was submitted in outline with access to be determined at this stage. Matters of appearance, landscaping, layout and scale are reserved for future consideration. An indicative site layout was submitted with the appeal. This was revised to take into account the reduction in the number of the dwellings. I am satisfied that no party would be prejudiced by my consideration of the amended, indicative scheme. I have, therefore, determined the appeal on that basis.

Main Issues

4. The main issues are:
 - whether the proposal should make a contribution towards affordable housing and, if so, whether an appropriate contribution would be made.
 - whether the proposal would promote a sustainable pattern of development; and,
 - the effect of the proposal on the character and appearance of the area.
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Reasons

Affordable Housing

5. Policy SP9 of the Selby District Core Strategy 2013 (CS) states that the Council will seek to achieve a 40%/60% affordable/general market housing ratio within overall housing delivery. In order to achieve this aim, the policy sets out that the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings or more. This is consistent with the National Planning Policy Framework (*the Framework*) and in particular paragraphs 17 and 50 which identify that the planning system should proactively drive the delivery of homes and where there is an identified need for affordable housing, that Local Planning Authorities should set policies for meeting this need.
6. It is proposed to construct 24 new dwellings. The appellant indicates that the proposal would provide for affordable housing. However, there is no indication as to the extent of affordable housing that would be provided nor has a planning obligation under S106 of the Act which would secure affordable housing from the development been provided.
7. The appellant indicates that affordable housing could be secured through condition. However, the Planning Practice Guidance (PPG)¹ advises that a negatively worded condition limiting the development that can take place until a planning obligation has been agreed is unlikely to be appropriate other than in exceptional circumstances such as in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. There is no evidence before me that such circumstances exist in this case. As a result, I consider that this matter cannot be dealt with by condition.
8. I conclude, therefore, that the proposal should make a contribution towards affordable housing. In the absence of any such contribution, the proposal would conflict with Policy SP9 of the CS and paragraphs 17 and 50 of *the Framework*.

Pattern of Development

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal is determined in accordance with the statutory development plan unless material considerations indicate otherwise.
10. Policy SP2 of the CS sets out a settlement hierarchy in which Selby is identified as the Principal Town in which new housing will be focussed. Further housing will be provided in Local Service Centres and Designated Service Villages to an extent appropriate to their size and role. Hensall is identified as a Secondary Village in the CS in which Policy SP2 (b) allows for limited amounts of residential development inside Development Limits where it will enhance or maintain the vitality of rural communities. Policy SP2(c) states that development outside of the limits is limited to: the replacement or extension of existing buildings; the re-use of buildings; and, well designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural

¹ PPG Paragraph: 005 Reference ID: 21a-005-20140306

- communities in accordance with CS Policy SP13, which relates to economic and employment uses in rural areas.
11. CS Policy SP4 states that in Secondary Villages, conversion, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages and conversion/redevelopment of farmsteads will be permitted. The appeal site lies outside of the settlement limits for Hensall. Consequently, it would conflict with CS Policy SP2(b) and would not accord with the criteria set out under CS Policies SP2(c) and SP4.
 12. Nevertheless, Paragraph 49 of *the Framework* states that relevant policies for the supply of housing should not be considered up-to-date if a Council cannot demonstrate a 5 year supply of deliverable housing sites. CS Policies SP2 and SP4 seek to control the location of housing and are, therefore, relevant policies for the supply of housing.
 13. At the time of the original application the Council was able to demonstrate a 5 year supply of housing land, though it is now common ground between the main parties that it is no longer able to do so. I have no reason to conclude otherwise. Consequently, CS Policies SP2 and SP4 should not be considered up-to-date and I therefore afford those policies limited weight.
 14. Paragraph 55 of *the Framework* states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Background Paper 5 of the CS ranks Hensall as one of the smallest populations in the district. The Council argues that 24 new dwellings would not be a limited or appropriate scale for the settlement and that there is no evidence that it would enhance or maintain the vitality of the community and its services.
 15. However, with a population of between 600-1100, an additional 24 dwellings would be unlikely to result in a significant proportional increase in the total population of the settlement even when considered in the context of 5 dwellings which have been built in the settlement since the start of the CS period in April 2011, with extant approvals for a further 3 dwellings. In any event, I have been provided with no evidence that the proposal would place undue demands on existing services and facilities in the village or that existing infrastructure does not have the capacity to accommodate the development. There is little substantive evidence before me to suggest that 24 dwellings would not be appropriate to the size and role of the settlement. Indeed, it is reasonable to conclude that new residents would maintain, or even enhance, existing facilities through increased use and spending on goods and services.
 16. Background Paper 5 also indicates that Hensall has the lowest ranking for sustainability. Nevertheless, in terms of basic services it ranks as 2 out of 4 with a primary school and a general store. Indeed, I was able to see from my site visit that there is also a pub/restaurant, children's play area and church within easy walking distance of the appeal site along well-lit footpaths. Although the main part of the village is separated to the north of the appeal site and Hensall is ranked as 3 out of 4 for public transport accessibility, I noted from my visit that there is a bus stop close to the site on Station Road which offers services between Pontefract and Selby which contain a wider range of services and facilities. In addition, Hensall railway station, albeit with limited services, is within walking distance of the appeal site.

17. As a result, future residents would have reasonable access to basic services and facilities on foot, with a wider range of services and facilities within reach by a choice of sustainable transport modes. Such a factor would contribute towards achieving sustainable patterns of development.
18. I conclude, therefore, that the proposal would promote a sustainable pattern of development. Whilst the proposal would conflict with CS Policies SP2 and SP4, the proposal would accord the provisions of *the Framework* in respect of housing in rural areas as set out in paragraph 55. This would outweigh the conflict with CS Policies SP2 and SP4.

Character and Appearance

19. This part of Hensall is characterised by housing of predominately linear form on Station Road. Nevertheless, this part of the settlement has a loose grain with development either side of Weeland Road, both to the east and west of the junction with Station Road. Beyond the loose knit built-up area is predominately open and flat agricultural land.
20. The appeal site is an area of flat, grazing land bound in part by trees and hedgerows which are at their most dense on the southern boundary with Weeland Road. The site sits at a lower level to Weeland Road and is bound by housing to the east and west with the premises of an engineering firm to the north. Whilst the appeal site provides an area of open land between existing development, it is of poor quality visually and does not play a particularly positive role in the character or appearance of the area.
21. The Council's principal concern is that the proposal would result in an encroachment into the countryside which would be harmful to the form, character and layout of the village. The proposal would indeed inevitably introduce urban form into an area of land which is currently free from development.
22. However, change in character need not necessarily equate to harm. The appeal site is distinctly separate from the wider rural landscape, being enclosed by the vegetation on its boundaries. Furthermore, the proposal would be contained within the established confines of the site which has clear, defensible boundaries with housing on both side, commercial use to the north and Weeland Road to the south. Moreover, the proposal would be largely viewed in the context of the existing development adjacent, as well as the church and primary school to the south. In my view, whilst it lies outside of the defined settlement limits the appeal site would represent infill within the built up area of the settlement and the proposal would not result in a significant erosion of open countryside beyond Hensall.
23. The indicative layout demonstrates that 24 dwellings could be accommodated on reasonably sized plots with generous spaces between and a substantial amount of landscaping. This would retain open spaces and vegetation within and around the site. As a result, the proposal would not detract from the loose knit pattern of the settlement and would maintain the open, rural character of the area beyond.
24. I conclude, therefore, that the proposal would not have a harmful effect on the character and appearance of the area. It would, as a consequence, accord with saved Policy ENV1 of the Selby District Local Plan Part 1 – General Policies

2005 (LP) which states that development will be permitted which is of good quality taking into account the effect upon the character of the area. It would also accord with CS Policies SP18 and SP19 which state that the high quality of the environment will be maintained and that new development will be expected to have regard to the local character, identity and context of its surroundings including settlement patterns and the open countryside.

25. Finally, it would accord with paragraph 17 of *the Framework* insofar as recognises the intrinsic character and beauty of the countryside and paragraph 64 of *the Framework* which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Other Matters

26. LP Policy RT2 states that proposals for new residential development comprising 5 or more dwellings will be required to provide recreation open space at the rate of 60 square metres per dwelling as it is essential that adequate provision for recreation open space related to the scale of development is incorporated in new residential development if future deficiencies are to be avoided.
27. The Council takes the view that a financial contribution towards such facilities would be necessary, directly related, and fairly and reasonable related in scale and kind to the proposed development, in accordance with paragraph 204 of *the Framework*. No such contribution has been provided. However, the provision of a contribution would be a neutral factor in the balance rather than a benefit and, as the appeal is to be dismissed on other substantive issues, the lack of contribution towards recreation open space would not affect the overall decision.
28. I have considered the concerns of local residents in respect of highway safety, however, the proposal would provide adequate visibility splays at the access point onto Weeland Road and the proposal would not generate a significant increase in vehicular movements in the context of the existing movements on Weeland Road. In the absence of any compelling evidence to the contrary, I am satisfied the proposal would not have a harmful effect on highway safety.
29. There is no substantive evidence before me that local schools and other infrastructure lack sufficient capacity to meet need arising from the development. Nor is there any evidence that the proposal would give rise to the risk of flooding. I therefore afford such concerns limited weight.
30. To the south of the appeal site is the Grade II* Listed St Paul's Church and the Grade II Listed Primary School. The prevailing openness of the land around the heritage assets makes a significant contribution to their setting. Existing views of the Church and its immediate churchyard setting are seen in the context of Weeland Road and the existing built form of the settlement. Weeland Road and the dense cover of trees in the churchyard separate the appeal site from the listed buildings. As a result, the proposed development would not unduly detract from their setting and, in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I find the proposal would preserve the setting of St Paul's Church and the Primary School listed buildings.

Planning Balance and Conclusion

31. The proposal would accord with Policies ENV1 of the LP, as well as CS Policies SP18 and SP19. However, it would conflict with Policies SP2, SP4 and SP9 of the CS. As such, I find that the proposal would conflict with the development plan when taken as a whole.
32. Nevertheless, the Council is unable to demonstrate a five year housing land supply and therefore relevant policies for the supply of housing are out of date. As such, I afford limited weight to the conflict with such Policies - SP2 and SP4 of the CS and I have, therefore, considered the proposal in the context of sustainable development as set out in *the Framework*.
33. Paragraph 14 of *the Framework* sets out the presumption in favour of sustainable development as: where the development plan is absent, silent, or, as in this case, relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against *the Framework* taken as a whole.
34. The proposal would promote a sustainable pattern of development and would protect the character and appearance of the area, in line with the environmental role set out in *the Framework*, in particular paragraphs 55, 64 and paragraph 17 insofar as it recognises the intrinsic character and beauty of the countryside. I also note it would have some economic and social benefits through job creation and would enhance the vitality of the local community and its services through spending from future residents, as well as New Homes Bonus Scheme funding for the Council. Furthermore, the proposal would make a significant contribution towards boosting the supply of housing in line with paragraph 47 of *the Framework*.
35. However, the development would not make a contribution towards affordable housing which I have found to be necessary in this instance. This would fail to meet the housing needs of the area and would fail to deliver a wide choice of quality homes as set out in paragraphs 17 and 50 of the Framework. The lack of affordable housing contribution results in harm which is of sufficient weight that the proposal would fail to achieve the social role of sustainability. As a result, when considered against *the Framework* as a whole, I find the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits and the proposal would not therefore be sustainable development for which there is a presumption in favour of. Consequently, I find there are no considerations which would outweigh the conflict with the development plan in this instance.
36. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR