



Appeal Decision

Site visit made on 4 June 2018

by **Philip Major BA(Hons) DipTP MRTPI**

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

Decision date: 12th June 2018.

Appeal Ref: APP/E2734/W/18/3195984

Land off Rowden Lane, Hampsthwaite, Harrogate HG3 2HR.

- 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 Vernon Land Partnership (Hampsthwaite) Limited against the decision of Harrogate Borough Council.
 - The application Ref: 17/03437/OUTMAJ, dated 15 August 2017, was refused by notice dated 28 November 2017.
 - The development proposed is residential development of up to 130 dwellings (access for consideration only).
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Preliminary Matter

1. There are two submitted planning application forms. I have cited the second in the heading above as it is the later of the two.

Decision

2. The appeal is dismissed.

Main Issue(s)

3. The main issues in the appeal are:
 - (a) The effect of the proposed development on the character and appearance of the surroundings;
 - (b) The effect of the proposed development on the recreational use of the public right of way which crosses the appeal site;
 - (c) Whether it has been demonstrated that the proposal can be implemented without undue detriment to the function and safety of the surrounding highway network.

Reasons

Background

4. The Hampsthwaite Action Group (HAG) has made representations on a number of matters, some of which are encompassed in the main issues identified above. However HAG also believes that the application should have been accompanied by an Environmental Statement (ES) and gives reasons for that belief. I have taken careful note of those representations. Both the Council and, at appeal stage, officers of the Planning Inspectorate have reviewed that matter. The Council concluded that an ES was not required. The Planning Inspectorate saw no reason to disagree with the Council's opinion. Having

considered the relevant matters I am in agreement that this is not a case which requires an ES.

5. It is acknowledged by the Council that it cannot currently demonstrate a 5 year supply of deliverable housing sites as set out in the update of April 2018. Supply is assessed at some 4.5 years. However I am also informed that planning permissions granted lead to a position in which there is now a supply of 5415 dwellings against a requirement of 5128 (including a 20% buffer). So whilst it is clear that the Council is taking steps to address supply issues (as acknowledged in a recent appeal decision¹) I am bound to treat the official supply update of April 2018 as the more weighty evidence on this matter. The lack of a 5 year supply renders policies for the supply of housing out of date (as explained in paragraph 49 of the National Planning Policy Framework (NPPF)). This in turn means that paragraph 14 of the NPPF comes in to play. Where the development plan is out of date (as here) planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
6. The development plan includes the saved policies of the Harrogate District Local Plan (as revised) and the Harrogate Core Strategy. I deal with the most relevant policies in the main issues below. I am informed that the appeal site has been, and continues to be, promoted as a housing site in the draft Harrogate District Local Plan. However it has not been selected by the Council as a preferred option, or allocation, in the draft plan. Because the draft plan has some distance to go before it can be adopted it can carry only limited weight.

Character and Appearance

7. The appeal site encompasses just over 9 hectares of land to the south of the village, part of which includes a rocky outcrop (Knox Hill) and rising ground leading up towards Rowden Lane. Knox Hill is close to the northern boundary with the developed area of the village. A public footpath also runs close to the boundary and traverses the site.
8. The Harrogate District Landscape Assessment of 2004 places the site in the Lower Nidderdale Valley North West of Harrogate landscape character area (LCA). The key characteristics identified in the LCA include many which are evident on and around the appeal site, such as millstone grit geology (Knox Hill), rising valley sides, livestock pasture, scattered woodland and trees along field boundaries. Valley sides accommodate scattered farmsteads and single dwellings, whilst settlements are close to strategic river crossings and are linked by a network of lanes. All of these characteristics (and more) blend to form a highly attractive rural landscape.
9. Although not within the Nidderdale Area of Outstanding Natural Beauty (AONB) which lies a short distance to the west, the landscape of the area around the appeal site merges indistinguishably into it. The LCA suggests that the landscape has a limited capacity to accept built development, and I agree that this is generally a fair assessment. Although it does not spell out a judgement on the sensitivity of the landscape to development there is an implication of high sensitivity. My own judgement is that the appeal site, which exhibits key

¹ APP/E2734/W/16/3160792

- characteristics of this landscape, is indeed at the high end of sensitivity to development.
10. The proposal, though in outline form, gives indications as to how the site might be developed, and in particular proposes an access point towards the south-west corner of the land. For a development of the number of houses applied for (up to 130) it is therefore inevitable that development would extend onto the upper slopes of the site. This would bring buildings and infrastructure into a wholly undeveloped rural area and would be at odds with the prevailing character there. The influence of built development would fundamentally change the character of the landscape across the southern part of the site where there is currently limited impact from such influence. The magnitude of change would be high and this would result in a major adverse impact on landscape character. The impact would be exacerbated by the works likely to be needed to create safe access, and I comment on this below.
 11. Visually the site is clearly perceived as part of the open countryside surrounding the village. There is a strong boundary of vegetation along much of the northern edge of the land which differentiates it from the built up part of the village. The presence of Knox Hill gives further emphasis to the perception of the area as being countryside.
 12. Development of a significant number of homes on the land would extend the village into the countryside in a manner which would be visually disruptive. Not only would there be buildings where there are currently fields, but the form of development, with an access so far divorced from the village, would be seen as a separate and distinct entity. It seems to me that the potential for physical links with the current built form are so tenuous (being restricted to pedestrian links in few locations) as to effectively lead to the creation of a separate, outlying housing development. This would be visually at odds with the relatively coherent nature of village development, including that now being built and that which has recently been granted planning permission.
 13. In addition the longer range views of the site, from the vicinity of Clint, would emphasise the proposed housing extending up the opposite valley side to the south, heading towards the hilltop horizon, and visually creating an urban form of development in attractive countryside. I have taken note of the visualisation from a similar position prepared on behalf of the Appellant. This document seems to me to overemphasise the impact of the development under construction (and yet to be constructed) and underemphasise the likely impact of this proposal. From these more distant points to the north the site would be seen as a significant and harmful visual intrusion into open countryside.
 14. Taking these matters together it is my conclusion that the proposed development would be seriously harmful to the character and appearance of the surroundings of Hampsthwaite. I recognise that detailed design (including the potential for landscape mitigation works) would be for later consideration, but I am not satisfied that this would be likely to overcome the harm I have identified.
 15. As such the proposal would be in conflict with Core Strategy Policy EQ2 which, subject to the need to plan for new greenfield development, seeks to protect the landscape character of the District. There is an implicit balancing exercise required in applying this policy and it is consistent with the NPPF, which also requires a balance to be struck between development and the recognition of

the intrinsic character and beauty of the countryside. Saved Local Plan Policy C2, which seeks to protect existing landscape character, is also relevant even though this is not wholly in accordance with the balancing requirement implicit in the NPPF. However, the policy retains some weight and the proposal is in conflict with it.

Public Right of Way

16. The public footpath which crosses the site from west to east gives attractive views across the open countryside to the south. I have no reason to doubt that it is used by recreational walkers, and I would expect them to gain enjoyment from the use of the path. The eastern leg of the path will be affected for a short distance by a recently granted planning permission, but that is not a matter which is before me.
17. However, this appeal proposal would introduce housing development to the south of the footpath, cutting off direct views out towards the countryside. In my judgement this would remove a great deal of the attractiveness of the route as it passes the village. Whatever green infrastructure were to be introduced into any development the footpath would become a walking route between areas of housing. That would be a significant and detrimental change from the current situation. I do not share the Appellant's assessment that there would be any benefit to the public right of way in this regard.
18. I add here that information submitted subsequent to the application being first lodged suggests that the footpath would be improved and regraded in large part. This would be likely to change its character from a path across a field to something more akin to a surfaced path in a formal recreation area. There may be advantages in this for any residents of the development, but for country walkers this could equally be a detrimental change in the character of the walk being undertaken.
19. Recreational walkers are rightly regarded as sensitive receptors to development proposals, and this development would have a major if localised impact on the enjoyment of this particular footpath. As such the proposal would conflict with saved Local Plan Policy R11, which seeks to avoid harm to the character or recreational value of public rights of way. I agree with the main parties that this policy is consistent with the NPPF and it can be given significant weight.

Highway Network

20. The application was refused in part because matters relating to access (part of the application) and the impact of traffic from the development had not been resolved. The matters at issue principally related to the visibility splays at the site access, and the impact of the proposal on the junction of Rowden Lane with the A59 a short distance to the south.
21. In relation to the visibility splays on Rowden Lane, this is a technical matter which I have no doubt could be resolved. I note that a subsequent drawing indicates visibility splays but takes the access even further from the village. Similarly it seems likely that other matters first identified as requiring resolution could also be resolved. I am informed that in relation to a later (smaller number of dwellings) proposal there have been no objections from the highway authority.

22. That said I have some concerns similar to those expressed on behalf of HAG. Notably the later revised drawings of pedestrian access to the north-west corner of the site give little indication of the engineering likely to be needed to provide an adequate footpath link. This could have implications for the impact of the development on the character and appearance of the locality. Likewise the vehicular access and visibility splays required would require tree/vegetation removal and would add to the urbanising effect identified in the first main issue.
23. Although I acknowledge that HAG has been critical of the submission of later information that information does suggest to me that technical matters would be capable of being resolved. But the information equally suggests that the impact of the proposal on the character and appearance of the locality would be worse than that created by the originally submitted proposal.
24. So far as traffic flows are concerned I realise that HAG has concerns about traffic flowing south to the A59 junction, and the potential for congestion in the village itself (amongst other matters). But I have no information to suggest that the residual impact of the proposal would be severe and therefore there would be no conflict with the advice of paragraph 32 of the NPPF.
25. On this issue, then, I am satisfied that there are technical solutions which would enable the development to be undertaken safely in relation to highway matters and that residual impacts have not been shown to be severe. But the potential for exacerbated landscape impacts has not been resolved in relation to access detail.

Other Matters

26. HAG has raised the matters of drainage and primary school capacity. In relation to drainage I note that a feasibility study is required before connection to a foul sewer can be agreed. There is no guarantee that such a connection can currently be made. I am therefore concerned that any planning permission granted might be negated by the lack of suitable facilities to provide foul drainage connection. It seems to me that this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition requiring a study to be carried out. If such a study should show there to be no capacity a serious difficulty arises. Hence I am not satisfied that there is sufficient information before me to reach a conclusion that planning permission can safely be granted in relation to foul drainage matters.
27. So far as the school capacity is concerned the Appellant acknowledges that a contribution would be required to enable the development to go ahead. This would usually be secured by S106 Agreement. In this case a condition requiring the matter to be resolved is suggested as an alternative (as well as for community and public open space provision). This is an atypical approach but in light of my final decision I take this no further.
28. The Council has expressed its concerns that the setting of Hampsthwaite Conservation Area (CA) would be adversely affected by this proposal. The closest part of the CA would be some way to the north of the north-western edge of the site. From there it extends northwards and is largely centred around the historic core of the village, the church, bridge and river bank. Development of the appeal site would be unseen from the majority, if not all, of

the CA. On approach from the south along Rowden Lane the CA does not become apparent until after the site has been passed. In my judgement the 2 areas exert little influence on each other beyond the site being in the countryside surrounding the village. But the site plays no material part in defining the setting of the CA. This minor link between the 2 leads me to conclude that any impact on the significance of the CA is so slight as to be negligible and not determinative in this case.

29. Many local residents are concerned in relation to the impacts of the proposal on traffic in and around the village. I understand those concerns and deal with technical highway matters above. I have no substantive evidence to reach a view other than that outlined earlier.

Overall Conclusions and Planning Balance

30. There are a number of important benefits which would flow from the proposed development. Not least is the supply of housing in a situation where there is no current 5 year supply. Some 40% of the houses would be affordable. These are important material considerations in favour of the proposal. Hampsthwaite has been identified as a village which can accommodate further development and I note that it has basic public transport links and some services within walking and cycling distance. New housing is likely to support the retention of local facilities. In addition the construction phase would provide jobs, and in the longer term householder expenditure would be generated, thus improving the economic base of the locality. The provision of public open space on site is of minor importance here in a location which has good links to the countryside and other facilities within the village.
31. Set against the benefits, though, is the serious harm to landscape which I have identified. This includes the remote access point, unresolved matters relating to the engineering works required to provide access, and the inevitable 'semi-detached' form of development which would lack integration with the existing settlement. The new housing would be a discordant element in the landscape and in conflict with the development plan and the NPPF. In addition there would be significant harm to the recreational function of the footpath crossing the site, and this too leads to conflict with the development plan and the NPPF.
32. I cannot agree with the Appellant that the balance here lies in favour of the development proposals. The environmental harm is such that the scheme cannot be regarded as sustainable development. Put simply, this proposal would be the wrong scheme in the wrong place and would result in adverse impacts which the scheme would not be able to satisfactorily mitigate. The adverse impacts of development would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole and planning permission should be refused.
33. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR