



Appeal Decision

Site visit made on 12 June 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2019

Appeal Ref: APP/G2713/W/19/3223618

OS Field 1900, Stillington Road, Huby YO61 1HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Wharfedale Homes Ltd against the decision of Hambleton District Council.
 - The application Ref 18/00820/FUL, dated 12 April 2018, was refused by notice dated 28 August 2018.
 - The development proposed is described as a 'change of use from agricultural land to residential use for construction of 10 detached dwellings with associated access, parking and gardens.'
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. These are a) the effect of the proposed development on the character and appearance of the area; b) whether the proposed development would make appropriate provision for affordable housing; and c) whether the appeal site would be an appropriate location for new housing having regard to the development plan and sustainable patterns of new development.

Reasons

Character and Appearance

3. The appeal site is part of an open and undeveloped relatively flat field to the south of Stillington Road. It is currently laid to grass with a hedge lining the northern boundary, separating it from the road. There is an area of mature trees to the west which surround another field that subsequently abuts residential development on the eastern fringes of the village (fronting Stillington Road, Main Street and Gracious Street). There is further frontage, part ribbon, development set back from and facing Stillington Road to the north and forming something of a cluster around Maple Lane/Maple Croft which branches off, also to the north. There is a distinct rural character to land to the south of Stillington Road both in consideration of the appeal site itself and land to its east, west and south.
4. The proposed development would site ten detached dwellings on the site which would be a parcel of land taken from said wider field. The appeal scheme

itself, whilst not wholly frontage development, would take reference from how the character of the settlement edge has evolved in built form terms on land to the north, around Stillington Road and Maple Lane/Maple Croft. The house type and mix would also be semi reflective of that in the locality.

5. My concern in regard to this main issue however stems from how the development would be somewhat self contained and whilst in close proximity to the settlement's built edge, it would be detached therefrom by an area of woodland, a grassed field and road. It would encroach into what is a defined open and undeveloped area of rural landscape and appear, by virtue of the above factors, as something of an awkward bolt on, beyond the edge of the existing settlement. In addition, and whilst not identified by the Council in their reasons for refusal, I am mindful that the schemes two points of access would breach the existing roadside hedge which, as it stands uninterrupted, reinforces the distinct rurality of the landscape surrounding the appeal site. The proposed development would be a strong visual presence on the opposite side of Stillington Road and noticeable from road approaches travelling both in and out of the village, particularly into the village from the east as it would visually stand out against a predominantly rural backdrop given much of the development to the north is obscured by roadside and garden planting.
6. With the above in mind, the appeal scheme would be harmful to the character and appearance of the area, such that it would be contrary to Policy CP1 of the Core Strategy¹ and Policies DP30 and DP32 of the DPDPD². Amongst other things and along with the Framework³, these policies seek to ensure that new development is of a high quality and contextually appropriate design and appearance, it protects and enhances the character and appearance of the local landscape and wider countryside.

Affordable Housing

7. Policy CP9 of the Core Strategy sets out the development plan's requirements for the provision of affordable housing through new development. In 'other areas' as is the appeal site it is required from developments of two or more. Ensuring an appropriate provision and mix is identified by Policy DP13 of the DPDPD. Following discussion with the Council, it appears from the evidence that a provision of two dwellings was agreed, to be secured by way of a bilateral agreement as a planning obligation. Having regard to the development plan and the evidence, this seems to me a reasonable and proportionate contribution.
8. The appellant has made attempts to secure a completed bilateral agreement with the Council but owing to various factors a final signed and sealed version has not been forthcoming. The appellant has stated that they would agree to the wording of the most recent draft version and have it signed and completed in the event I were to allow the appeal.
9. Whilst I have no reason to doubt this would be the case, I would not be in a position to allow the appeal with such a matter outstanding as there would be no suitable controlling method before me to ensure it is done for the security of

¹ Hambleton Local Development Framework Core Strategy 2007

² Hambleton Local Development Framework Development Policies Development Plan Document 2008

³ The National Planning Policy Framework 2019

the planning permission and for the appeal scheme to be compliant with the development plan in regard to this main issue.

10. I have given thought to the use of planning conditions requiring the obligation to be completed. However, I am equally mindful of Planning Practice Guidance (PPG) which states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.
11. Such an approach may be appropriate, again having regard to PPG, in the case of more complex or strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk, but I do not feel the proposed development amounts to such a situation.
12. I have also given consideration to allowing further time for the appellant and the Council to resolve matters with regard to the wording of the obligation and therefore have it before me in a completed form. However, this would not overcome the harm that I have found in respect of the first main issue which would remain even in this event. In the absence of a completed planning obligation therefore, I am unable to find the appeal scheme would comply with the aforementioned policies which seek to ensure appropriate provision of affordable housing through new development.

Appropriate Location

13. The appeal site is outside of the settlement as it is defined by the development plan. Policy CP4 of the Core Strategy identifies Huby as a secondary village and subsequently promotes an appropriate scale of development within its limits. Development within settlement limits is reinforced by Policy DP9, restricting new development outside to certain exceptions, also expressed by CP4. Whilst not adopted as part of the development plan as far as I can see, the Council also have an Interim Policy Guidance (IPG) note which is intended to accompany CP4 and 'give support to the sustainability of rural communities'.
14. Huby, from the evidence and my own visit, seems to be a reasonably sized village with a shop, primary school, church, public house and a number of businesses as well as community recreational facilities. There are therefore some services which would go some way to meeting residents' day to day needs and thus reducing the need to travel as per the assertions of the Framework. The schemes seeks to link to the village via a new footway provided to the front. It also appears there are sustainable travel options available to larger settlements (including York), with regular bus services hourly from a stop immediately outside of the appeal site.
15. The Council's IPG places a limit on the size of new development when assessing sites outside of settlements but those that may support existing services within the settlement or nearby groups of settlements. The limit is modest, and by its own admission, small scale at up to five dwellings. A number of factors need to be borne in mind however. Chief amongst which being that the IPG is guidance and not policy and it should be treated as such.

The prescribed limit therefore should be considered somewhat arbitrary. The village has a small but fairly broad range of services that ten dwellings could readily support and arguably promote enhancements in the offer. Indeed, the Council's evidence would appear to agree. It also seems to me that greater use would ensure they continue, for the benefit of other nearby and lesser served settlements as per paragraph 78 of the Framework. Equally, and going back to the five dwelling limit, it does not strike me that ten dwellings would place undue strain on local services but has the potential to do quite the opposite in some cases.

16. Turning attention back to CP4, it seems that the appeal scheme would not sit squarely with any of its exceptions for development to take place in other locations (in settlements or in countryside). Purely in those terms therefore there would be some conflict. I note the comments of the appellant in regards to how consistent CP4 is with the Framework and by association DP9 but the policies exist to promote sustainable patterns of new development, one of the aims of the Framework, which equally advises of cases where there may be exceptions. The exceptions may not completely align and thus there may be some lack of consistency but on the whole they seek to achieve similar objectives. The IPG seeks to support CP4 but I have treated this accordingly above.
17. Despite the proposed development falling the wrong side of a line specified in the development plan (the settlement limit), taking my earlier comments into account regarding the site, the settlement's services and improvements to access it does not strike me that the scheme would necessarily serve to promote unsustainable patterns of new development. There are therefore, and with particular regard to the merits of the case, material considerations at play that could be capable of outweighing the conflict with CP4 and DP9. With this and the above factors in mind, and with regard to this main issue, I consider that, with regard to the development plan and sustainable patterns of new development, the appeal site would be an appropriate location for new housing.
18. In addition, it seems to me that the appeal scheme would comply with Policy CP2 of the Core Strategy which seeks to ensure that development and the provision of services should be located so as to minimise the need to travel.

Other Matters

19. Policy CP16 of the Core Strategy is referred to in the Council's reasons for refusal. I have seen a copy. CP16 seems, on my reading and consideration of its supporting text, to be primarily concerned with the district's man made and natural assets. Such as the Green Belt, Conservation Areas and Areas of Outstanding Natural Beauty. There is no indication that the appeal site falls within any of these areas. Whilst one could perhaps legitimately argue that the countryside is one of the districts natural assets it is not explicitly referred to by CP16. I am not therefore convinced that what it seeks to achieve is directly relevant to the appeal scheme. I have therefore not referred to it in my findings and that the policies I have referred to are more than sufficient to relate to the main issues I have identified.
20. The appellant sets out that the appeal site is part of an area identified in the emerging Hambleton Local Plan as being a preferred housing site. Be this as it may, this is a draft allocation which is part of an as yet unadopted document

which is, according to the evidence, some way off its final form. I can therefore only ascribe this minimal weight.

Conclusions

21. I have found that, in regard to promoting sustainable patterns of new development, the appeal site would be an appropriate location for new housing. However, there would be harm to the character and appearance of the area and a lack of an affordable housing contribution which would in both respects give rise to conflict with the development plan. Since in the case of the appeal site being an appropriate location we have a lack of harm, this would be neutral in any balance, consequently incapable of weighing against harm.
22. There does not appear to be debate as to the status of the Council's supply of housing sites and as such I would not be taken to the so called tilted balance set out by paragraph 11 of the Framework for this reason. However, if I were to do so on the back of aforementioned policies being out of date as per the appellant's argument for reasons of a lack of conformity with the Framework, I would treat those most important policies accordingly and subsequently consider the benefits against the harm.
23. In the social sense, some new housing would be provided which would add to choice and mix locally but the level of provision would not be significant and in any case the district does not appear to be in an undersupply situation for housing. There would be some economic benefits with jobs and investment in the local construction industry and subsequently taxation and expenditure of future occupiers going forwards but again these would be constrained to some extent by the scale of the proposed development. Some landscaping could be proposed as per the appellant's suggestion but this would not be sufficient to offset the overall effect it would have and thus the environmental harm that would be caused to the character and appearance of the area in the terms I have described. Harm that would result in conflict with policies of the development plan not so affected by a paragraph 11 situation.
24. I note a number of environmental 'benefits' identified by the appellant however, matters such as access to services, the site not being in a designated area, a low risk of flooding and the design of the dwellings would be accepted matters and overall constitute a lack of harm which can only be treated in the terms I have set out earlier.
25. Taking the above into account, and if I were in the situation of having to do so, it would be my conclusion that the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.
26. Whilst having regard to all other matters raised, the appeal is therefore dismissed.

John Morrison

INSPECTOR