



Appeal Decision

Site visit made on 6 May 2014

by **S P Williamson MBA Dip TP MRTPI**

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

Decision date: 10 June 2014

Appeal Ref: APP/E2001/A/14/2214687

Land north of The Stray, The Stray, South Cave, Brough HU15 2AL

- 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 Watts against the decision of East Riding of Yorkshire Council.
 - The application Ref 13/03446/OUT, dated 5 August 2013, was refused by notice dated 16 January 2014.
 - The development proposed is development of up to 24 homes.
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Decision

1. The appeal is allowed and planning permission is granted for development of 24 homes at Land north of The Stray, The Stray, South Cave, Brough HU15 2AL in accordance with the terms of the application, Ref 13/03446/OUT, dated 5 August 2013, subject to the conditions set out in the schedule below.

Procedural and Preliminary Matters

2. The application is for outline planning permission. The application form makes it clear that approval is also sought for the access and that all other matters (scale, layout, appearance, and landscaping) are reserved for future consideration, though an indicative layout has been submitted to which I have had regard.
 3. The proposed development in the bullet point section above is as the proposal was described on the application form. In making the appeal the appellant indicated that the description of development had changed from that stated on the application form, and the revised wording was given as follows 'development of 24 homes'. There is no copy of the Council's agreement to the change; however, the proposal is described on the decision notice as 'Outline – Erection of 24 dwellings (access to be considered)'. I have therefore taken the appellant's revised wording and used it as the agreed description of the development.
 4. Planning Practice Guidance (the PPG) came into force, and various previous national planning guidance documents were cancelled, on 6 March 2014. I have taken the PPG into account.
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Main Issues

5. The main issues in this appeal are
 - a. Whether the appeal proposal would be a sustainable development, having regard to national planning policy
 - b. The effect of the development on the safety of road users; and
 - c. The effect of the development on flood risk from surface and foul water.

Reasons

Sustainable development

6. South Cave is a large village comprising substantial areas of housing development that are set either side of the A1034, which passes through the Market Place at the village centre. Most of the amenities, shops, public transport links and commercial services are located in the centre. The Council regards the village as a sustainable location in principle for housing development and I have no reason to disagree with that opinion.
7. The appeal site is located in the north-eastern area of the village, approximately 1km by road from the centre. Given the extent of the village this is not an exceptional distance. It is an undeveloped part of a larger housing area referenced as H1di in the adopted 1996 Beverley Borough Local Plan (the BBLP). Another undeveloped housing site referenced as H1dj/H16 lies to the south of the appeal site and is closer to the village centre. Both sites are included in the Council's five-year supply of housing land which currently exceeds five years.
8. Site H1dj/H16 is adjacent to a site for a primary school referenced in the BBLP as C2h. The evidence is that the primary school site is no longer required and the Council has allocated it together with site H1dj as site SCAV-A in its emerging East Riding Local Plan (the ERLP). The Council's position is that site SCAV-A would provide in the order of 80 houses, which is close to the 85 houses forecast as being needed in the village by the ERLP, and that as a result no additional large sites are required.
9. Furthermore the Council also contends that site SCAV-A should be preferred for development over the appeal site as it is significantly closer to and within easier walking distance of village centre services and public transport links. The location of the appeal site is regarded as encouraging the use of the car rather than more sustainable forms of transport. The appeal site is not allocated for residential development in the ERLP and is to be designated as countryside.
10. However, it is not the purpose of the appeal process to settle the quantum or location of housing and other development in South Cave. This is one of the roles of the ERLP; which, although it has been subject to public consultation, it has not yet been submitted for examination and therefore may still be the subject of objections and modification. Therefore, and in accordance with paragraph 216 of the Framework this limits the weight I am able to give to the emerging ERLP policies referred to by the Council.

11. The National Planning Policy Framework (the Framework) seeks to achieve a sustainable pattern of development where the social, environmental and economic dimensions of development are mutually dependant and jointly sought. On the basis of the limited information available to me there appears a fair probability that the SCAV-A site included in the emerging ERLP is consistent with these requirements. Be that as it may, this is no basis for determining that the appeal site fails these sustainability tests so justifying dismissal of the appeal. From what I have read and seen, although it is slightly more distant from the village centre these are nuanced differences which do not render the site unsustainable in locational terms. Moreover, in all other respects the appeal site is consistent with the social, economic and environmental goals of the Framework. As such, I am satisfied that development of the appeal site accords with the expectations of the Framework and complies with the relevant policies of the BBLP
12. In deciding this appeal I give greatest weight to the presumption in favour of sustainable development set out in paragraphs 14 and 49 of the Framework. This means, (unless material considerations indicate otherwise) approving housing development proposals that accord with the development plan without delay. The appeal proposal accords with the adopted BBLP and would make a valuable contribution to the supply of housing in an area with a recent record of under-delivery. The Council's concerns regarding the relative sustainability of the two allocated housing sites in the village are properly a material consideration. However, these locational differences are nuanced, necessarily limiting the weight to be afforded to them; accordingly they do not outweigh the strong presumption towards approval in paragraphs 14 and 49.
13. I therefore conclude on this issue that having regard to national planning policy the appeal proposal would be a sustainable development.

Safety of road users

14. The decision notice sets out concerns that the appeal scheme would result in a significant increase in traffic passing through the existing housing estate, causing an adverse effect on highway safety. Subsequent to the appeal being made the Council considered information provided by the appellant and confirmed that it would not defend this reason for refusal. Nevertheless, this issue and other concerns including the inadequacy of roads and junctions, the dangers from extensive on-street parking and the availability of alternative means of access have been raised by other parties, including South Cave Parish Council.
15. I have taken account of these concerns; however, from what I have read it is apparent that the increase in traffic would be relatively small in proportion to the overall amount of development served by The Stray and the roads in the wider area, including Little Wold Lane. I drove along the access roads and into and out of the junctions several times before and after my site visit and I did not observe any undue highway safety issues. At the time of my early afternoon visit there was little evidence of on-street parking on the roads near to and approaching the appeal site. Although this situation might be expected to change when more existing residents are at home, I saw nothing to indicate that vehicles from the appeal site would result in unsafe parking or traffic conditions.

16. Paragraph 32 of the Framework is specific that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. I have not read or seen anything to persuade me that such impacts would occur as a result of the appeal proposal or that it is necessary to consider an alternative means of access to the site.
17. I therefore conclude on this issue that the appeal proposal would be unlikely to harm the safety of road users.

Flood risk

18. The appeal site is located in an area with the lowest probability of flooding and as such the proposed development would meet the aim set out in paragraph 101 of the Framework. However, paragraph 103 expects development not to increase flood risk elsewhere. Nearby residents have provided details of surface water standing on the lower part of the appeal site close to adjoining properties, of surface water entering one property and of road manhole covers leaking water. These events appear to relate mainly to heavy rain in 2007.
19. The Environment Agency (the EA) raised similar issues in commenting on the planning application and objected, pending the receipt of further information. Prior to making the appeal the appellant commissioned a further flood risk report, which concluded that in regard to off-site impacts surface water could be disposed of at source via soakaways to be designed in accordance with BRE365 and sized appropriate to the permeability of the soil where they are located. Alternatively surface water could be discharged to a watercourse.
20. In a letter dated 28 February 2014 the EA confirmed its satisfaction that the site could be drained in a worst case scenario. However; it indicated that depending on the number of soakaways required, it may mean altering the layout and potentially the number of dwellings contributing to the impermeable area. This could be considered at the reserved matters stage. Although no conditions were recommended by the EA I consider it is reasonable to impose a condition requiring the submission of and agreement to a surface water drainage scheme.
21. The EA also indicated the need for the Highways Authority to confirm its agreement to the highway drainage soakaways. The Council has recommended a condition that would overcome this matter.
22. In regard to potential flood risk from foul water, Yorkshire Water has not highlighted any problems with the wider sewer network; however, it has indicated that separate foul and surface water drainage systems are required and that foul water domestic waste only should discharge to the adjacent sewer in The Stray.
23. I therefore conclude on this issue that, subject to appropriate planning conditions, the development would not result in additional flood risk from surface or foul water. In this regard the appeal proposal would comply with BBLP Policy D18.

Other matters

24. In addition to the issues set out above I have taken account all of the concerns raised by the Parish Council and residents. The development would provide

the appropriate amount and quality of public open space and boundary landscaping. From what I have read and seen it is likely that most new housing development in the village would require a green field site with some effect on the landscape; the appeal proposal is not exceptional in this regard. The Education Authority has not raised concerns regarding the capacity of the local primary school.

Conditions

25. I have imposed conditions which are generally in accordance with those suggested, having regard to the advice in the PPG. The standard requirement is that reserved matters should be submitted within three years. The appellant has offered an eighteen month period so that the development contributes to the 5 year land supply. Whilst I appreciate the underlying intention, such an approach would not accord with the advice in the PPG since a reduced period for commencement is not necessary in order to make this development acceptable. A condition setting out the plans is necessary for the avoidance of doubt and in the interests of good planning.
26. In addition to the conditions referred to above in consideration of the issues, conditions requiring details of the reserved matters of scale, layout, appearance, and landscaping (including the provision, protection and retention of trees and hedges) are necessary to control the details of the development. The Council has suggested that outdoor play space should be provided in accordance with Supplementary Planning Guidance; however, it has not provided a copy of the document. The appellant has suggested particular items of equipment to be provided. I consider it relevant at this outline stage simply to require these details to be submitted for future consideration.
27. Although the means of access to the site is to be decided at this stage, it is necessary for reasons including the satisfactory appearance, safety, and drainage of the development to require details of roads, vehicle turning arrangements, cycleways (if any) and footways to be submitted and agreed. For the same reasons it is necessary to control the erection of structures on any service strips that may be provided and the timely provision of road access to occupied properties.
28. Although the Habitat Survey does not identify any adverse effect on protected species, the recommended avoidance and mitigation measures are necessary to protect and enhance the wildlife habitat.
29. In view of the relationship of the site to existing residential areas, conditions controlling site working and construction access times are necessary to protect living conditions.
30. The Council has referred to its 2007/2013 interim approach to affordable housing in suggesting a condition requiring the submission of a scheme for such provision. However, a copy of the document has not been provided. The appellant has not objected to the condition, and I consider that provision is required. I have therefore imposed a condition based on the model condition in the Planning Portal.

Conclusion

31. For the reasons set out above I have concluded that the appeal proposal would be a sustainable development, that it would be unlikely to harm the safety of road users and that it would not result in additional flood risk from surface or foul water. I have considered all the other matters raised but none are sufficient to alter my conclusions on these main issues. I therefore conclude that the appeal should succeed.

S P Williamson

INSPECTOR

Richborough Estates

Schedule of Conditions

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing numbers E137/1 and 13.407.1B insofar as it details the access.
- 5) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a. the numbers, type, tenure and location on the site of the affordable housing provision to be made;
 - b. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - c. the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
 - d. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - e. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 6) The details to be submitted and approved in writing by the local planning authority in accordance with condition 1 shall include details of a scheme for the provision of outdoor play space. The submitted scheme shall also include a programme of implementation and arrangements for its future maintenance. The open space shall be laid out and equipped in accordance with this agreed scheme.
- 7) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) During construction, deliveries to the site shall only occur between the hours of: 08.00 and 18.00 on any day Monday to Friday between 09.00 and 13.00 on any Saturday and at no time on a Sunday or Bank Holidays.

- 9) Construction or development on the site shall only be undertaken between the hours of: 08.00 and 18.00 on any day Monday to Friday between 09.00 and 13.00 on any Saturday and at no time on a Sunday or Bank Holidays.
- 10) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 11) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework and its Technical Guidance (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b. include a timetable for its implementation; and
 - c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 12) No development shall take place unless in accordance with the recommendations for mitigation set out in the ecology survey report prepared by Applied Ecology Ltd, dated March 2013.
- 13) The development shall not commence until a detailed Ecological Enhancement and Management Plan (EEMP), has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include, but not be limited to, the recommendations set out in Section 4.2.2 of the ecology report prepared by Applied Ecology Ltd, dated March 2013, as well as full details of all enhancement measures and a timetable for their implementation. Development shall be carried out in accordance with the approved measures and timetable of the EEMP.
- 14) No development shall take place until details of hard and soft landscape work has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to the occupation of any part of the development. These details shall include:-
 - i) planting plans including schedules of plants, noting species, plant sizes and proposed numbers / densities;
 - ii) a programme for the implementation of the landscaping works; and.
 - iii) a scheme for the future maintenance of the areas not included within private curtilages.

- 15) If within a period of 5 years from the date of the planting of any tree or shrub that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies another tree or shrub of the same species, size and maturity as that originally planted shall be planted at the same place.
- 16) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the last occupation of any building on the site.
 - a. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approved shall be carried out in accordance with British Standard (3998 – 2010 Tree Work).
 - b. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of equal size, species and maturity.
- 17) The erection of fencing for the protection of any retained tree on or adjacent to the site shall be undertaken in accordance with the approved plans and recommendations made in the Tree Report provided by Waller Tree Consulting before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 18) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on an immediately adjoining the site shall be protected from damage for the duration of works on the site in accordance with the Tree Report provided by Waller Tree Consulting and in accordance with British Standards (BS 5837: 2012). Any parts of hedges or hedgerows removed or which die or become seriously diseased or otherwise damaged following completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species as shall be submitted to and approved in writing by the local planning authority.
- 19) Development shall not begin on the site until details of the layout, drainage, construction, services and lighting of the proposed access roads, footways and cycleways, including the connection with the existing publicly maintainable highway have been submitted to and approved in writing by the local planning authority.
- 20) No dwelling on the site shall be occupied until that part of the service road which provides access to it has been constructed from the junction with the public highway in accordance with the approved plans.
- 21) No dwelling shall be occupied until the means of vehicular access has been provided and space has been laid out within the curtilage of that dwelling for motor cars to be parked and to enable vehicles to turn so that they may enter

and leave the site in forward gear in accordance with details to be submitted to and approved in writing by the local planning authority. The vehicle parking and turning facilities shall thereafter be retained.

- 22) Notwithstanding the provisions of Class A of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking and subsequently re-enacting that Order, no gates, fences, walls or other means of enclosure shall be erected or constructed within any service strip so identified in the approved plans.

End of Conditions

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