



Appeal Decision

Hearing held on 15 December 2015

Site visit made on 16 December 2015

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 11/02/2016

Appeal Ref: APP/C2708/W/15/3132932

Crosshills Road, Cononley, North Yorkshire (Grid Ref: 399187 easting 446752 northing)

- 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 Mrs H Watts against the decision of Craven District Council.
 - The application Ref 21/2014/14630, dated 30 April 2014, was refused by notice dated 19 February 2015.
 - The development proposed is the erection of up to 10 dwellings with community open space, vehicular and pedestrian access, highway safety improvements, local resident's off-street parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on this basis and have treated the layout plans as illustrative.
3. As the proposal is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The Council has an emerging plan that is at an early stage of preparation. As its policies are yet to be tested they carry little weight. Consequently, this appeal has been determined according to policy ENV2 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan 1999 (LP) and the National Planning Policy Framework 2012 (the Framework).
5. I have taken into account changes in case law relating to planning obligations and affordable housing contributions, which came into force on 31 July 2015, in reaching my decision [*West Berks DC and Reading BC v SSCLG [2015] EWHC 2222 (Admin)*]. The relevant content of this judgement has been considered but, given the facts of this case, it does not alter my conclusions.
6. The proposal was amended following submission to the Council but prior to its determination. This change is reflected in the following plan: Ref 7336/001 REV Hi. As I am satisfied that all interested parties have been made aware of these amendments and would not be prejudiced, the appeal has been determined on the basis of the indicated plan.

Main Issue

7. The main issue is the effect of the proposal on the character and appearance of the local area, bearing in mind the special attention that should be paid to the desirability of preserving or enhancing the character or appearance of the Cononley Conservation Area.

Reasons

8. The Cononley Conservation Area (CCA) is characterised by a combination of agricultural and industrial influences that are manifest in its enclosed field system, narrow streets and vernacular stone architecture. Whilst most of the buildings date from the 18th and 19th centuries, a number of earlier buildings of historic importance are also present that date from the 16th and 17th centuries. These range from converted farmhouses to buildings associated with the later industrial development of Cononley. The evolution of the village is not only manifest in its architecture but also in the field patterns in and around the historic core of the village. These pastoral elements with their stone walls and scattered trees contrast with the wilder, partially wooded backdrop of Gib Side and the flat expanse of the River Aire floodplain. Consequently, the significance of the CCA not only lies in the above features but also in how their intimate juxtaposition manifests the phased development of the village and its environs. Maintaining the balance and legibility of the agricultural, residential and industrial phases is therefore important in maintaining the overall historic significance of the CCA.
9. The appeal site encompasses an area of pasture covering approximately 0.7ha and a section of Crosshills Road that includes a grass verge and a number of parking spaces that are offset from the main carriageway. The appeal site slopes steeply from this road towards a bowling green and recreation ground to the north. These are part of a cluster of recreational areas that also includes a cricket pitch and football ground to the east of the appeal site. A public footpath is situated between the appeal site and the cricket pitch. This links Crosshills Road to Main Street with the latter running through the historic core of the village. The existing access to the site is via a field gate on Crosshills Road which is situated in between a derelict barn and dry stone wall that front directly onto the carriageway. The appeal site is part of a larger land parcel that extends to the common boundary of the bowling green and adjacent recreational area to the north.
10. The proposed development would move the existing access a short distance to the east. The barn and dry stone wall would be reconstructed as a result. This would be done in order to provide visibility splays for the proposed access. The relevant plan (Ref 7336/001 REV Hi) shows that the access would extend down the slope at approximately 90° to Crosshills Road. A footway and two parking spaces, offset from the main driveway, would also be incorporated. Although appearance and layout are reserved matters, an illustrative plan has been provided (Ref SK03) that shows that the driveway would be extended in parallel to the rear boundaries of four properties situated in between the appeal site and Crosshills Road. The overall design concept envisages a series of split level dwellings that would be set into the slope immediately behind and below these properties. A single storey would face the existing properties whilst three stories would face towards the bowling green and recreation area to the north. A relatively level area of ground at the bottom of the slope would

- become a 'community garden' and lead to the subdivision of the existing land parcel.
11. I observed that the appeal site, which is known locally as Madge Bank, is a prominent enclosed agricultural feature that is clearly visible from a number of points of view. These not only include the adjacent recreational areas and footpath but also one of the main approaches into the village from the A629. I also note that the site can be clearly seen from Cononley railway station. Whilst the embankment is one of its most visually striking features, the derelict barn and dry stone wall are also clearly visible when viewed from the footpath and Crosshills Road. These features reinforce its agricultural character and past use despite the unkempt appearance that has resulted from the recent cessation of grazing on the site after it was purchased by the current owner.
 12. Notwithstanding the views from Crosshills Road, the layout of the village is such that only glimpses of the historical agricultural context of the CCA can now be seen in the core of the village when travelling along its principle roads. With residential development now predominating, Madge Bank is one of the few remaining, closely juxtaposed agricultural features situated near the historic core of the village that is still clearly visible. Although the recreational areas immediately to the north are closer, they have a domesticated and highly manicured appearance that is not in keeping with the agricultural context of the village. Given the above, I find that Madge Bank makes a significant contribution to the character and appearance of the CCA.
 13. The significance of Madge Bank goes beyond its visual contribution, however, and evidence suggests a continuity of agricultural use has been present since the first documented agricultural tenancy of William Lee in 1756. Although the barn was not formally recorded on a map until 1830, its presence is noted in the aforementioned tenancy agreement and is therefore most likely to be of earlier origin. I note that the appellant acknowledges that the boundaries of the land parcel in which the appeal site is situated are probably 'ancient' and that all but the northern boundary have remained unchanged. Bearing in mind the widespread agricultural practice of rough grazing that still persists today, I am satisfied that Madge Bank is an important historic feature in its own right given the continuity of traditional agricultural use that has been present up until the most recent changes to its management approximately two years ago.
 14. I accept that the appellant has sought to retain the open character of both the appeal site and the wider land parcel and acknowledge the Unilateral Undertaking demonstrates a degree of intent. However, the impact of the proposal goes beyond simply whether or not the majority of the site would remain open. This is because the proposal would affect the most visually prominent part of the site, i.e. the embankment, and lead to the loss of an, albeit currently unmanaged, agricultural feature of historic importance. Whilst I accept that the existing houses on Crosshills Road would reduce the prominence of the proposed dwellings, in comparison to a more isolated green field site, the most prominent part of the appeal site would nevertheless be lost through the resulting urbanisation. This negative impact would not only arise from the buildings themselves but also the domestic paraphernalia of future occupants and the prominent hard landscaping associated with the main access, irrespective of any condition that might limit permitted development rights.

15. Additionally, I am not satisfied that sufficient safeguards are in place to ensure that the open ground in and around the site would be retained and managed appropriately in the longer term. Whilst the development of the area immediately to the north of the appeal site is unlikely, given its flood zone status, I am not satisfied that the Unilateral Undertaking would deliver the intended benefits. This is because whilst it was not ruled out, there was no firm indication at the Hearing that the Parish Council would be willing to accept the financial and legal liability for the land that would help to ensure its ongoing retention and management despite Madge Bank being proposed as an Asset of Community Value.
16. In the event that the Parish Council are not willing to purchase the land I am concerned that the application of a restrictive covenant, as an alternative, would not provide an effective solution. In this regard, the enforcement of restrictive covenants, or applications to modify or discharge them, would lie outside the planning system. As the control of the land is required for a planning purpose safeguarding it should be achieved by means of a planning obligation. Furthermore, the use of such a covenant would not secure the long term management of this area. A similar issue is present in relation to the open ground within the appeal site to the northwest of the proposed dwellings. Whilst conditions could be used to ensure that both areas are retained and appropriately managed in the short term, I have no agreement before me that would secure the positive management of either area in the longer term.
17. The appellant has relied upon the reported views of English Heritage, which has since become Historic England, and the Historic Buildings and Conservation Advisor to justify the suitability of the site for residential development. However, these views involve matters of judgement which are, at times, finely balanced. Having carefully considered all the facts I have reached a different conclusion based upon the greater weight of evidence before me. In any event, the Planning Policy Guidance 2014 (as amended) advises that the decision to grant or refuse a planning application ultimately rests with the local planning authority taking in to account all relevant planning considerations.
18. The appellant is of the opinion that the appeal site has no formally recognised value as part of a special landscape area or as an open green space. Moreover, it is maintained that the proposed development would be screened by existing vegetation when viewed from both the footpath and Main Street. I accept that the appeal site has no other formal designation associated with its visual value, however, the fact remains that it is within the boundary of the CCA and it therefore has an established significance irrespective of any other supplementary designation. In terms of screening, I observed that the proposed development would be clearly visible during winter months from the above viewpoints. Moreover, the use of such impermanent features, which can be removed or die from natural causes at any time, would not provide satisfactory mitigation of the visual impact of the development in my judgement.
19. Given the above, I find that the proposed development would detract from the character and appearance of the local area to the detriment of the heritage significance of the CCA. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. It goes on to advise that significance can be harmed or lost through the alteration or

destruction of the asset. Given the scope of the loss, I find the harm to be less than substantial in this instance. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal.

20. The appellant is of the opinion that the proposal would have a number of public benefits. Principally these would comprise boosting the supply of housing, improving affordable housing provision and creating a new public open space. A number of additional benefits were also identified by the appellant. These would include: the screening of the adjacent properties on Crosshills Road; enhanced support of local services; improvements to the nearby highway; and additional funding for local services through the New Homes Bonus. The appellant also maintains that the location is sustainable because of the proximity of the local railway station.
21. I am inclined to agree that some public benefits would indeed be derived from the development. I accept that it would make an, albeit limited, contribution to the supply of housing and the provision of affordable homes in the local plan area. I also accept that there would be an improvement to the highway along Crosshills Road insofar as the relocation of the barn and wall would provide an extended line of sight. The off-street parking arrangements would also allow vehicles to park without overlapping with the carriageway, as I observed to be the case during my site visit. This would increase the area that passing vehicles have to manoeuvre thus improving road safety. I accept that the railway station and bus service would provide an alternative means of transport and that the location would consequently be sustainable from this perspective.
22. However, I am not satisfied that there would be any significant public benefit from the other matters that have been raised. Firstly, the additional public space that might be gained from the proposal would be of poor quality given its waterlogged nature and would therefore only have limited amenity value. Secondly, the extent to which 10 dwellings would make a material difference to the vitality of local services is equivocal bearing in mind the relatively large size of village. Thirdly, whether or not the New Homes Bonus would benefit the local community is unclear as this payment is not linked to providing any specific local services or facilities. Fourthly, although the majority of the adjacent properties are of more recent origin and do not conform to the established vernacular stone architecture of the historic core, their location in a more recently developed spur of the village defines their context and thus reduces their incongruity. Consequently, I am not satisfied that any screening provided by the development would materially enhance the CCA as a whole.
23. Bearing in mind the above and the great weight that should be given to the conservation of designated heritage assets I find that the public benefits would not outweigh the harm that I have identified. I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the Cononley Conservation Area, thus failing to satisfy the requirements of the Act and paragraph 134 of the Framework. This would conflict with policy ENV2 of the LP that seeks, among other things, to ensure that development is compatible with the character of the surrounding area. Consequently, the proposal would be contrary to the development plan.

Other Matters

24. The Council acknowledges that it is unable to demonstrate a 5 year supply of deliverable housing sites. Although the extent of the shortfall was disputed by the appellant the policy implications relevant to this appeal are the same irrespective of the magnitude of any shortfall. Even if I were to accept the appellant's lower estimate this would not outweigh the harm that I have identified. Under such circumstances paragraph 49 of the Framework indicates that relevant policies for the supply of housing should not be considered up-to-date.
25. In this instance I accept that this applies to policy ENV1 of the LP because it seeks to restrict development outside the defined settlement limit. Consequently, this policy only carries limited weight in the balance of this appeal. Where relevant policies are out of date, there is a presumption in favour of sustainable development unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. Given the harm that would be caused to the CCA and having had regard to the policies of the Framework as a whole, I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits as considered in paragraphs 21-24 of this decision. Consequently, it would not amount to a sustainable form of development and would thus be contrary to paragraph 14 of the Framework.
27. Both parties have relied on the emerging plan to justify their positions. The appellant has highlighted the need to extend settlement boundaries to accommodate housing needs whilst the Council has highlighted a distributional analysis showing that the allocation for Cononley has already been met. However, neither these assertions nor any evidence relating to objectively assessed housing need has been tested through examination in public. Consequently, all arguments relating to the emerging plan and its supporting evidence can only be given limited weight in the balance of this appeal.
28. I have considered the concerns that were raised at the Hearing and in written evidence about the potential effect of the proposal on highway safety but find none of the matters raised to be decisive in my consideration of the appeal.

Conclusion

29. For the above reasons and having regard to all other matters raised I conclude that, on balance, the appeal should be dismissed.

Roger DJ Catchpole

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Mark Eagland	Planning Consultant
Dr George Nash	Heritage Consultant

FOR THE COUNCIL:

Mr Neville Watson	Principal Planner
Mr Ken Martin	Highways Officer
Mr Patrick Mulligan	Councillor
Mr Sutcliffe	Vice Chair Planning Committee

INTERESTED PARTIES:

Ms Lois Brown	Cononley Parish Council
Mr Andrew Wilson	Local resident
Mr David Murgatroyd	Local resident
Ms Jo Wilson	CPRE
Mr Quigley	Local resident
Mr Guy Porter	Local resident
Ms Joan Nicholson	Local resident
Mr Andrew Brown	Local resident
Mr David Gulliver	Local resident
Ms Jules Marley	CPRE
Mr John Craven	Local resident
Ms Sandra Stevens	Local resident
Ms Elaine Brunswick	Local resident

DOCUMENTS:

S1	Agenda Item 7 Annex 3 – suggested local housing distribution
R1	Five year housing land supply methodology & report – December 2015