



Appeal Decision

Site visit made on 11 August 2020

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 27 August 2020

Appeal Ref: APP/E2001/W/20/3247955

Land north of East Dale Road, Welton Old Road, Melton, Welton HU15 1NU

- 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 Qdos Education Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref: 19/01616/STOUT, dated 17 April 2019, was refused by notice dated 2 September 2019.
 - The development proposed is the erection of Qdos Technical College, Qdos Careers Hub, Children's Day Nursery, and Residential Development.
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Preliminary Matters

1. The application was submitted in outline with all matters reserved except for access. The access is proposed from a new roundabout junction. Other indications of how the site might be developed (such as the masterplan and drawings of potential college/hub buildings) are illustrative at this time. Nonetheless they provide a clear steer on how the Appellant envisages the development would progress.
2. Requests for recovery of this appeal for determination by the Secretary of State were made by the agent for the Appellant and by David Davis MP. Both were of the opinion that the innovative and unusual nature of the proposal is such that it raised matters of more than local interest. The requests were duly considered and the responsible Minister reached the view that the case does not meet the tests for recovery. I proceed on that basis.
3. The appeal site is located within a Site of Special Scientific Interest (SSSI). The site has been designated for its geological interest. However, there has been no objection to the development by the relevant bodies. It has been suggested that part of the site should be treated as being previously developed land. However, as the land in question was used for mineral extraction it is clear from the glossary in the National Planning Policy Framework (NPPF) that it cannot be so defined.
4. The residential element of the proposal is included as an enabling development for the educational element. Information submitted indicates that without the residential development the technical college and careers hub could not proceed.

Decision

5. The appeal is dismissed.

Application for costs

6. An application for costs was made by East Riding of Yorkshire Council against Qdos Education Ltd. This application is the subject of a separate decision.

Main Issues

7. The main issues in the appeal are:
 - (a) The effect of the proposed development on the character and appearance of the locality;
 - (b) The impact of the proposed development on the highway network;
 - (c) Whether any harm identified is outweighed by the benefits of the proposed development such that it should be permitted.

Background

8. It is important to recognise 2 matters before examining the main issues.
9. First, the development is in an area acknowledged as being open countryside within the development plan. In this instance the development plan¹ was adopted in 2016 and is therefore of recent origin. Residential development of the land is accepted as being contrary to the policies of the development plan in this respect. In particular there is in principle conflict with policies which seek to limit development outside defined settlement boundaries (Policies S3 and S4). Whether the educational element of the proposal should be treated as falling within the parameters of Policy S4(8) or (11) I deal with later.
10. Secondly, there is no dispute that the Council can demonstrate that it has a 5 year supply of deliverable housing land. The Appellant suggests that it is marginal, and that in any event the existence of a 5 year supply should not preclude acceptable windfall development. However it remains the case that housing land supply is not a matter which is the principal concern in this appeal. As such the so called 'tilted' balance in determining planning proposals is not engaged.

Reasons

Character and Appearance

11. The appeal site lies on the southern edge of the Yorkshire Wolds. The landscape hereabouts is characterised by rolling hills, mixed farming and fields of variable size separated by hedgerows and tree belts. The immediate vicinity includes the settlements of Welton and Melton, as well as South Hunsley School to the south side of East Dale Road. To the north and east of the site is an area formerly used for mineral extraction, now partly occupied by a large pond.
12. I have carefully considered the landscape and visual impact assessment (LVIA) submitted, with much of which I concur. For example, I agree that it is necessary to consider the perception of the physical separation of Welton and Melton. I also agree that some of the site is of medium sensitivity to development (the eastern part). However, I consider that the western part of the site has a greater degree of sensitivity. I also disagree with some of the judgements made in the LVIA as I set out below.

¹ Includes the East Riding Local Plan Strategy Document of April 2016

13. The LVIA asserts that the perception of the separation of Welton and Melton is not readily apparent in the vicinity of the appeal site (being better understood on a map). I do not agree. Although there is a ribbon of development and the school to the south of Welton Old Road/East Dale Road, these developments are low density and include open areas. The land to the north of the road, although bounded by trees and hedgerows, is clearly perceived as being open, with the rising wold landscape leading to the skyline. The fence around the former mineral workings is a minor visual intrusion, but the character of the land is that of open countryside, even allowing for the fact that the eastern part appears to have been the subject of earth moving or clearance to the extent that it is now overgrown scrub. There is development to the south, east and west, but the appeal site itself is part of an area of land with a very different character.
14. From the public footpath to the north the separation of Welton and Melton is even more apparent. The school is a low key element and the appeal site and surrounding lands are obviously part of a tract of open countryside.
15. The development would adversely affect the established character of the area by introducing built development across the site. In effect it would completely bridge the gap between Welton and Melton, leading to those settlements coalescing in a manner that is not readily apparent today. Development plan Policy A1C3vi specifically seeks to maintain the separation of Welton and Melton (amongst others). The proposal would run counter to that policy.
16. The Yorkshire Wolds are described in the development plan as an important landscape area. This flows from the East Riding Landscape Character Assessment. The supporting text to development plan Policy ENV2 describes the desirability of avoiding detrimental impact on the physical separation of settlements. Whilst the settlements of Welton and Melton naturally exert some influence on the character of the appeal site, for the most part that influence is not great. Much of the land is well separated from built up areas by strong vegetation. It relates more to the open land of the wolds to the north than to the built up area. For that reason I assess its overall sensitivity somewhat higher than the LVIA.
17. I assess the magnitude of the impact of the proposed development on the current open area as being substantial. The provision of access, an educational establishment (potentially of 3 storey height) and a large number of new dwellings could hardly be anything else. In a landscape of importance this substantial impact on character would be long term and difficult to mitigate. In my judgement, therefore, the overall impact on the character of the area would be major and adverse. This would clearly conflict with Policy ENV2, which seeks to promote a high quality landscape.
18. In visual terms there would also be some harm. The receptors using the public footpath to the north would perceive the fact that Welton and Melton had no physical separation, and the educational buildings in particular would be likely to intrude into the panoramic view southwards over the Humber estuary. However, it is necessary to take into account that this vista includes elements of built development already, including wind turbines and development at the Melton industrial site to the south of the A63. The visual impact from the south includes receptors at residential dwellings, and passing traffic. For residents

the impact would be moderate to substantial given the significant change proposed. Passing traffic would be less affected.

19. Taking these matters together I conclude that the proposed development would impart a moderate to substantial impact on the character and appearance of the locality. That impact would be harmful and would lead to conflict with the development plan as set out.

Highway Network

20. Local residents have made plain that there are concerns that the traffic associated with this proposal would lead to unacceptable congestion and the potential for reductions in highway safety. The Appellant submitted a transport assessment (TA) at a late stage in proceedings and this has been examined by the Council and Highways England. On the basis of information supplied Highways England has no objection so far as the proposal would impact on the network under its control.
21. The local highway authority, on the other hand, is still concerned that the information supplied is insufficient to allow it to conclude that the proposal would be acceptable. A significant list of amendments or additions to the transport assessment is deemed necessary. Lack of information includes a travel plan or stage 1 road safety audit, amongst other matters. As such the highway authority recommends that planning permission should not be granted. Nonetheless a list of conditions has been put forward in the event that I decide to allow the appeal.
22. Given the significant matters which remain outstanding so far as the local highway authority is concerned I cannot be sure that an acceptable highway scheme is likely to be delivered. It may be that technical details could be resolved but, as advised by the NPPF, a transport assessment should enable the likely impacts to be assessed. That is clearly not the case here.
23. The TA notes that the site is in a semi-rural area and that in this context the site is accessible by sustainable modes of transport. That seems to me to be accurate, but I find it unlikely that the reality would match the aspiration. In the absence of a travel plan there is nothing substantive before me which persuades me that walking or cycling would be a likely option for accessing the site. There is a bus service which serves surrounding villages, towns and Hull, and some residents or students may well make use of this. The nearest railway station has a limited service and is any event some 3km distant. That would not be an attractive option. Local services are limited and in order to obtain day to day supplies the local town of Brough is a likely destination. Walking or cycling there is also unlikely to be an attractive option.
24. The educational element of the proposal has identified a large catchment area. But most of the population (centred inevitably around Hull as the largest settlement) seems to be some distance away by whatever mode of transport is used. Put simply, it seems to me that the location of the educational establishment is such that it would not encourage sustainable modes of transport. Similarly the residential element of the proposals is likely to rely heavily on the use of the private car. Nothing in the material submitted by the Appellant is sufficient to provide more than an aspiration to support sustainable transport. I do not consider it realistic to rely on aspirations without some concrete indication of being able to deliver what is aspired to. The lack of

definitive proposals for the use of sustainable transport on this site is in conflict with Development plan Policy EC4.

Whether Harm is Outweighed by Benefits (planning balance)

25. The benefits of the proposal are concentrated primarily in the provision of the educational element² of the scheme. A number of reports and studies have been produced which indicate that this provision would be of significant benefit to students from a wide catchment area. The overall aim is to widen educational choice and opportunity for young people with no cost to the public purse. I cannot imagine that anyone would take issue with the nature of the objectives. Indeed, I find them to be laudable. The day nursery element of the proposals is an additional, but not the primary, benefit identified.
26. The Appellant has held discussions with government departments and agencies when drawing up its proposals, which are clearly aimed at improving technical skills education to fill a gap in provision it has identified, as well as career guidance. Further discussions have been held with more local organisations. It is unsurprising that there is a high level of support for the objectives set out, especially when there is a reported shortfall in meeting benchmarks locally.
27. The Council, on the other hand, has identified that there is a surplus of education provision in the post 16³ age group. Representations show that the Department for Education has not identified a need for structural changes to post 16 education in the East Riding. That is not to say that extra provision for technical education and careers guidance would not be welcome, but I am not persuaded that it has been shown that there is an overriding need for extra provision based on current failings in the system.
28. Hence it is my judgement that any provision over and above the level already provided and found satisfactory should be welcomed, but equally should be provided at locations which are shown to be acceptable in land use terms.
29. There would be some economic benefit from the residential element of the proposal, and the potential for longer term economic benefit from the educational and careers elements. The residential economic benefit would flow from most alternative sites and I have no evidence that benefit from the educational element would go materially beyond what would be provided from existing provision.
30. As I have noted, the residential element of the proposal is intended to finance the majority of the educational element. However, there is no provision within the development for the provision of any affordable housing. This is because of viability issues. Providing affordable housing would make the scheme unviable. This is not a matter which is included in the Council's reasons for refusing permission as I understand that the viability assessment was first raised at the appeal stage. However, it is the case that failure to provide affordable housing would be in conflict with the development plan.
31. I draw together my conclusions on the main issues and other matters here.
 - The proposed development would be harmful to the character and appearance of the locality and in conflict with the development plan;

² Technical College and Careers Hub

³ As well as the 0-4 age group covered by the day nursery element of the proposals.

- There is no bar to residential development beyond the requirement set out in the local plan if it is well founded and on an acceptable site. However, it is acknowledged that this site falls foul of development plan policy;
- It has not been adequately demonstrated that the proposal would follow sustainable transport objectives, and this conflicts with the development plan;
- The education benefits of the proposal would be significant and I accept that extra provision at no cost to the public purse should be welcomed on an appropriate site. However, on balance I cannot conclude that there is an overriding need for this provision here.

32. Taking these matters together I am satisfied that the proposed development would be socially beneficial and have some economic benefit. However it would not follow the environmental strand of sustainability. It cannot be regarded as sustainable development. The starting point must be the development plan, and in this case there is conflict as set out above. Furthermore, as the proposal would not respect the intrinsic character of the surroundings it would not benefit from the support of Policy S4 (8) or (11). The conflict with the development plan is not outweighed by the identified benefits, and there are no material considerations which are sufficient to indicate that the proposal should be determined other than in accordance with the development plan.

33. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR