



Appeal Decision

Site visit made on 8 June 2023

by **S Brook BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal Ref: APP/G2713/W/23/3316000

Land to the south of Prospect Cottages, Husthwaite, York YO61 4PT

- 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 Richard Roberts, R, A, C, J Taylor against the decision of Hambleton District Council.
 - The application Ref 22/01469/OUT, dated 14 June 2022, was refused by notice dated 24 November 2022.
 - The development proposed is described as 'Demolition of existing building, and outline permission for the erection of up to 22 dwellings with all matters reserved except access'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following local government re-organisation, Hambleton District Council now forms part of North Yorkshire Council. However, as the planning application was originally determined by Hambleton District Council, I have retained this name in the above details. The Hambleton Local Plan, Adopted February 2022 (LP) remains the adopted plan for the area of this appeal.
3. Outline planning permission is sought, with access to be considered at this stage. I have determined the appeal on this basis. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance, landscaping, layout and scale as a guide to how the site might be developed, including revised layout plans that were submitted with the appeal.

Main Issues

4. The main issues in the appeal are:
 - a. the effect of the proposed development upon the size, scale, role and function of the settlement; and
 - b. the effect of the proposed development upon the character and appearance of the area, with particular regard to the Husthwaite Conservation Area (HCA) and the setting of listed buildings; and
 - c. whether the development can provide a policy compliant net gain in biodiversity

Reasons

Size, scale, role and function of the settlement

5. Husthwaite is defined as a Service Village within LP Policy S3 which provides the strategy for the spatial distribution of growth for the area. The appeal site lies adjacent to the built form of the village. LP Policy HG5 sets out the criteria for considering housing development on unallocated or 'windfall' sites adjacent to the built form of a Service Village.
6. Criteria c) of LP Policy HG5 requires that all proposals, individually or cumulatively, represent incremental growth of the village that is commensurate to its size, scale, role and function. Neither LP policy S3, nor policy HG5 provide any indication of the number of new dwellings anticipated to be delivered within or adjacent to each Service or Secondary Village. Therefore, a judgement is required in each case, based on the size and character of the village affected, along with the concentration of services therein.
7. Whilst I have carefully considered the Council's concerns with regards to the scale of the proposal, they do not identify any direct impacts on the infrastructure of the village or the available level of local services and facilities therein, and no evidence has been provided to this effect. Whilst I note some concerns in representations from the public, based on the evidence before me, I have no reason to conclude that the proposed development represents a level of growth that would not be commensurate to the size, scale, role and function of the village.
8. To conclude on this first main issue, the delivery of 22 dwellings within a village of this size would not materially harm the size, scale, role and function of the settlement. As such, the proposal would not conflict with Policy HG5 criteria c).

Character and appearance

9. The appeal site comprises part of a field which lies to the south of Prospect Cottages, a cul-de sac extending from High Street, which is a main route through the village. The appeal site rises up to the south of the village and contains an open sided agricultural building. Mature hedgerows form most boundaries, with the exception of the southern boundary which adjoins the remainder of the field and is open. Further housing exists to the east, along East View and Kays Bank. Further fields are to the south and west.
10. Much of Husthwaite village is designated as a conservation area. The housing to the immediate north and east of the site is excluded from the HCA boundary, as is the appeal site itself, albeit, it adjoins the HCA at its north-west corner. The village predominantly follows a linear pattern of development, with High Street, Low Street and The Nookin extending out from a central village green and listed church. A number of cottages along High Street are also listed buildings. The appellant's Built Heritage Statement notes that the HCA includes plot boundaries to the rear of frontage houses and cottages which evidence medieval toft and croft patterns.
11. Whilst it is not uncommon to see domestic outbuildings or agricultural type buildings to the rear of frontage dwellings through the village, the spacing between the built form allows views through to the open fields, trees and hedgerows that surround the village and contribute to a rural character. The significance of the HCA derives partly from the understanding it provides of the

historic growth of this rural village, including its relationship to the surrounding agricultural land that comprises its countryside setting.

12. I have paid special attention to the desirability of preserving the setting of any listed buildings, as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Whilst section 72 of the Act does not extend to the setting of a Conservation Area, I have also had regard to paragraph 195 of the National Planning Policy Framework (NPPF), which requires an assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.
13. Whilst Prospect Cottages extends off High Street, the layout of this cul-de-sac allows views through to the appeal site. As an open field on rising land that is visible from within the HCA, and forms part of the countryside setting to the village, the appeal site presently makes a positive contribution to the significance of the setting to the HCA.
14. The appeal site is private land, not a publicly accessible open space. It is not identified as a local green space on the policy map, reports or strategies provided by the appellant. It is not an important open space within the built form of the village. Nevertheless, its open and rural character clearly forms part of the countryside that surrounds the village and contributes to its setting, and its development has the potential to impact on the character and appearance of the village.
15. The proposed plans indicate that to accommodate 22 houses on the site, a compact form of development would be necessary. Due to the extent of the field to be developed and its visibility on rising land, the proposed development would erode the openness of the appeal site and subsequently the rural setting of this part of the village. As a result, the positive contribution the site presently makes to the open and rural setting of the HCA would be lost. Whilst I have had regard to the potential for additional tree planting as proposed on the indicative landscaping plan, this would not be sufficient in mitigating these impacts.
16. Further, the location of the development does not respond positively to the historic linear form of the HCA. I appreciate that the site does not fall within the HCA itself and that there are examples of modern development within the village that diverge from the linear form of the HCA, including to the immediate north of the site. I have had regard to the Settlement Character Assessment Study 2018 and note that the site is not identified as an area of sensitivity. However, within this document, the conservation area is recognised as a potential constraint to development and the appeal scheme would be notably at odds with its prevailing linear form. This would be perceptible from within the HCA, when passing along High Street, as well as looking towards the HCA from the footpath to the south. As such, the position and layout of the proposed development would not be commensurate with the prevailing linear form of the village, to the detriment of its character and appearance.
17. I note that the Council has previously allocated the site for housing and granted planning permission for residential development of the site under the now superseded local plan, finding in that case, that visual impact would not be significant. The site is no longer allocated and the previous permission has lapsed. I have also considered the findings of the appellant's Built Heritage

Statement, Heritage Technical Report and Landscape and Visual Impact Assessment. Nevertheless, I have reached my own conclusions on this matter based on my site visit and the evidence before me.

18. Reference is made to a number of listed buildings within the village, including Laburnam Cottage and Rose Cottage which are located on High Street and are those closest to the appeal site. The setting of these cottages largely comprises the immediate built form along High Street. Intervening modern housing along Prospect Cottages sits between these listed buildings and the appeal site. Other listed buildings within the village are separated from the appeal site by a combination of built form and mature vegetation. As such, I am satisfied that the proposed development would not harm any significance derived from the setting of these listed buildings.
19. Overall, the proposal would harm the character and appearance of the area. The proposal would conflict with LP Policy HG5, which, amongst other matters, seeks to ensure that proposals have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.
20. The harm identified would negatively impact on the contribution the appeal site makes to the significance of the HCA. Given the scale and nature of the proposed development, the harm to the significance of the HCA would be 'less than substantial'. LP policy E5 and paragraph 202 of the National Planning Policy Framework (NPPF) require that less than substantial harm is balanced against any public benefits. I will return to this matter below.

Biodiversity

21. LP policy E3 requires all proposals to demonstrate a net gain in biodiversity. The appeal site is presently grazing land, with mature hedgerows to most boundaries. The indicative layout plans show that the grazing land would be developed for housing, vehicle parking and circulation, and private gardens, with a small area of public open space. The submitted Arboricultural Impact Assessment indicates the potential for some removal/damage to existing hedgerow and boundary trees, but this would not be substantial. In any event, this is based on indicative plans, with layout and landscaping reserved for future consideration.
22. Two Biodiversity Net Gain Assessments have been produced thus far, which are not entirely consistent in their findings. Nevertheless, the appellant outlines that biodiversity net gain would be deliverable through off-site planting on the remaining part of the field to the south of the appeal site, which is land within the appellants' control. This would be in addition to landscape planting forming part of the development itself. Both parties agree that this could be secured through the imposition of a suitable planning condition, and I have no reason to disagree. As such, I am satisfied that the proposed development could deliver a net gain in biodiversity and so there would be no conflict with LP policy E3, the purpose of which is set out above.

Public Benefits

23. The proposed development would provide economic benefits during construction, through increased investment, employment and spend in the supply chain. The scheme would also be likely to generate CIL payments, New

Homes Bonus and tax revenue. Future occupiers would likely increase spending in the area and help to sustain local amenities and services, including local schools.

24. Whilst the Council has in excess of a 9-year supply of housing land, it remains a government objective to significantly boost the supply of homes and the proposed 22 new dwellings would add to the overall supply and greater choice in the housing market, in an accessible village with a range of services and facilities. I note support from members of the public wishing to re-locate here. Furthermore, it is likely that the scheme could provide affordable housing to meet local identified needs. LP Policy S3 states that delivery of more affordable housing in rural areas is a Council priority and I note a number of letters of support from the public raising the matter of housing affordability in the village.
25. The scheme would also deliver social and environmental benefits through the provision of play space, allotments and public open space accessible to all residents of the village. To seek to deliver these benefits and the affordable housing, I have been provided with a draft planning obligation. However, the planning obligation before me remains in draft and must be completed before it can take effect. Had I been minded to allow the appeal I would have given the parties the opportunity to complete the agreement prior to issuing a decision, however my decision does not turn on this matter.

Other Matters

26. I am aware that there is a pending appeal for residential development on land to the west of this site and LP policy HG5 includes a requirement to consider the cumulative impacts of new housing development. However, as that scheme remains undetermined, it has not been necessary for me to consider this matter further.
27. The site is within flood zone 1 and the information before me suggests that technical issues relating to flooding, highway and drainage design could be appropriately addressed through the imposition of conditions. These are neutral matters that do not weigh for or against the proposal.
28. The appellant suggests that the level of housing growth in Husthwaite over the last 20 years represents a poor performance in housing delivery. However, I have not been provided with any detailed assessment of housing needs in order to give this matter any significant weight.
29. I have been provided with some details of a scheme at Tollerton, whereby the Council concluded that the public benefits of that particular scheme outweighed the harm identified to heritage assets. Whilst I appreciate that there will be some instances where the public benefits of a particular scheme do outweigh the harm, this requires a judgement in each individual case. This example relates to a different proposal, in a different village, with different considerations. I have therefore reached my own conclusions as to whether the public benefits of the proposal outweigh any identified harm to heritage assets in the circumstances of this case.
30. I note a number of representations from members of the public raising additional concerns, relating to matters including infrastructure, drainage and flooding, road safety, parking, access for emergency vehicles, and wildlife.

However, the Council did not consider that any of these matters warranted a reason for refusal of the proposed development and having had regard to all the information before me, including the comments from technical consultees, I have no reason to disagree. Matters of design and any impact on the living conditions of existing residents would need to be considered at the reserved matters stage. Future expansion to the south of the appeal site would require a separate planning application and would be considered on its individual planning merits.

Planning Balance and Conclusion

31. For the reasons outlined above, the proposal would result in harm to the character and appearance of the area, conflicting with LP policy HG5 and causing less than substantial harm to the significance of the HCA. I attach considerable importance and weight to the desirability of preserving this designated heritage asset.
32. I have found that there would be no harm to the size, scale, role and function of the settlement and the proposed development could secure a net gain in biodiversity, in addition to the other public benefits of the appeal scheme discussed above. However, these benefits would not outweigh the identified harm. Additionally, therefore, the proposed development conflicts with LP policy E5, as it requires that proposals resulting in less than substantial harm to the significance of a designated heritage asset will only be supported where the harm is outweighed by the public benefits of the proposal. Further, the proposal does not comply with the requirements of the NPPF in terms of conserving heritage assets in a manner appropriate to their significance, ensuring that new developments add to the overall quality of an area, and are sympathetic to local character. The harm I have found leads me to conclude that there is conflict with the development plan as a whole.
33. For the reasons outlined above, having had regard to the development plan as a whole and all other matters raised, the appeal should be dismissed.

S Brook

INSPECTOR