
Appeal Decision

Site visit made on 4 October 2016

by Sarah Housden BA (Hons) BPI MRTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/H2733/W/16/3152970

Land off Carr Lane, Folkton, Scarborough, North Yorkshire YO11 3UH

- 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 Mr Chris Murphy against the decision of Scarborough Borough Council.
 - The application Ref 16/00048/FL, dated 6 January 2016, was refused by notice dated 25 April 2016.
 - The development proposed is 'proposal to form 2 no. properties (3 bedroom semi-detached).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The fourth reason for refusal relates to the lack of adequate provision for the payment of a contribution towards affordable housing. However, the refusal notice pre-dates the Court of Appeal judgement on 11 May 2016¹ which has established the specific circumstances where contributions for affordable housing and tariff style planning contributions should not be sought. These include developments of 10 units or less. Having regard to this and the updated advice in the Planning Practice Guidance, the Council has formally withdrawn the fourth reason for refusal and it has therefore had no bearing on the outcome of this appeal.

Main Issues

3. The main issues in this case are:
 - The effect on the character and appearance of the area, having particular regard to whether or not the character or appearance of the Folkton Conservation Area would be preserved or enhanced; and
 - Whether or not the development would accord with national and local policies relating to the location of development in the Borough.

¹ Secretary of State for Communities and Local Government and West Berkshire District Council [2016] EWCA Civ 441

Reasons

Character and appearance

4. The site lies to the east of Folkton, a small village which lies between the A1039 Filey Road and the village of Cayton to the north.
5. Approximately one-third of the site adjacent to the main road lies within Folkton Conservation Area. In the exercise of planning functions, the statutory test is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Paragraph 132 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. I have not been supplied with any evidence relating to the significance of Folkton Conservation Area as a designated heritage asset. However, it appeared from my site visit that its significance derives from the linear form of development comprising farmhouses, cottages and associated outbuildings of traditional proportions and appearance. To the north of Carr Lane, the position of buildings at the back edge of the pavement creates a tight-knit form of development. The use of whitewashed brick and stone creates a sense of cohesiveness and unity in the street scene. To the south of the road, more recent properties are set further back from the road resulting in a more staggered building line, but this does not undermine the tight knit and traditional character and appearance of the village and the Conservation Area.
7. Although there are dwellings opposite the site, to the south of the road the pattern of development changes after 'Ash Lea'. 'Beech Cottage' and 'The Meadows' are set back from the road in large plots and together with 'Springfield Farm' create a more sporadic pattern of development which gives way to the open countryside between Folkton and the village of Cayton to the north. When approaching along Carr Lane from either direction, the site is seen in conjunction with the adjoining undeveloped paddock to the west. This undeveloped gap forms a transition between the tight knit built up area of the village and the more sporadic development to the east. The open space, boundary hedges and sycamore tree within the site create a verdant and spacious character which contributes to the rural nature of the village and the character and appearance of the Conservation Area.
8. The form and detailing of the proposed dwellings including the use of dormer windows and chimneys would reflect the form and detailing of other properties in the village. However, their overall width and adjoining positions would create a 'terraced' effect. This, together with the elevated position of the site above the road would result in the dwellings having a dominant appearance in the street scene which would 'draw the eye'. The proposal would consolidate development at a location which forms a transition between the built up area of the village and the more sporadic development which extends into the open countryside. The prominence of the proposed dwellings together with the loss of the open space would be harmful to the character and appearance of the Conservation Area and to the rural character of the village.
9. I conclude in relation to the first main issue in this case that the proposal would harm the character and appearance of the area and would fail to preserve or

enhance the character or appearance of the Conservation Area as a designated heritage asset. Accordingly, there would be conflict with the requirements of Policy E.12 of the Scarborough Borough Local Plan (1999) (LP) which seeks to ensure that new development complements the character and appearance of the surroundings and does not detract from the appearance of the area by virtue of its design. There would also be conflict with the advice in the Framework that new development should add to the overall quality of the area.

10. The impact of the proposal would be relatively localised and in my view the harm to the Conservation Area identified above would be less than substantial. The Framework makes clear in paragraph 134 that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, a matter which I address in my overall conclusions.

Location

11. The site lies beyond the development limit for Folkton where LP Policy E.1 seeks to protect the countryside by restricting residential development unless it is essential for agriculture or forestry, or there are other exceptional circumstances. In this case, the dwellings are not essential for the purposes of agriculture or forestry and there is nothing in the evidence before me to indicate that there are any other circumstances which would justify the development as an exception in the terms of LP Policy E.1.
12. Although the LP pre-dates the Framework, Policy E.1 is broadly consistent with the advice in paragraph 55 of the Framework to avoid new isolated homes in the countryside unless there are special circumstances, none of which are relevant to the appeal case. However, paragraph 55 also advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. There are three dimensions to sustainable development – economic, social and environmental which must be sought jointly and simultaneously through the planning system.
13. Folkton shares some limited facilities with Flixton including a village hall and sports ground and new residents could help to support these, contributing to the social aspect of sustainability. There would be a contribution to the economic role arising from the increase in the supply of housing, albeit modest, and the jobs created during construction and New Homes Bonus.
14. However, the nearest settlements providing facilities to meet daily needs such as a shop and school are Staxton and Cayton approximately 3km and 5km away respectively. Bus services to the larger centres of Filey and Scarborough are limited. The proposal would be likely to result in an increased reliance on the private car to meet daily needs. In addition, there would be harm to the character and appearance of the area and the Conservation Area, albeit less than substantial harm. For these reasons, the environmental dimension of sustainability would not be met.
15. No further details have been supplied in support of the appellant's point that due to recent developments, the site should be regarded as infill development within the village and therefore I can attach little weight to this. Although the appellant indicates that the dwellings are required to meet the need of local families who have been priced out of the village, there is nothing in the evidence

before me to indicate that the occupancy or affordability of the scheme would be secured in the long term, and this does not add any weight in favour of the scheme.

16. I conclude in relation to the second main issue in this case that the proposal would be contrary to LP Policy E.1 which seeks to restrict development in the countryside unless there are exceptional circumstances. Whilst there would be a small contribution towards enhancing or maintaining the vitality of rural communities, the proposal would not amount to sustainable development when assessed against the Framework read as a whole.

Other matters

17. There is nothing in the evidence before me to indicate the effect of the proposed development on the long term health of the mature sycamore on the site and the ash tree in the garden of the neighbouring property Beech Cottage which is in close proximity to the common boundary with the site. Both trees are prominent and attractive features in the street scene and make a positive contribution to the character and appearance of the Conservation Area. Had my findings in relation to the main issues in this case been more favourable, it would have been necessary to address this matter more fully, however as the appeal is being dismissed for other reasons I make no further comments on this matter.
18. Representations indicate that the proposal would be detrimental to highway safety but as the appeal is being dismissed for other reasons, I have not addressed this point further.
19. Representations were made to the effect that the rights of the occupiers of Beech Cottage under Article 8 of the Human Rights Act 1998 which guarantees respect for the home, private and family life would be violated if the appeal were allowed. However, as the appeal is being dismissed, my decision would not lead to any violation.

Conclusion

20. The proposal would be contrary to LP policies controlling the location of development in the Borough and would fail to preserve or enhance the character or appearance of the Conservation Area. Whilst there would be some contribution to the supply of housing and local economy, given the scale and nature of the proposal, the benefits would be limited and would not outweigh the harm to the character and appearance of the area and the significance of the Conservation Area. For the reasons outlined above, and having had regard to all of the other matters raised, I conclude that the appeal should be dismissed.

Sarah Housden

INSPECTOR