
Appeal Decision

Site visit made on 15 November 2016

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 21 December 2016

Appeal Ref: APP/E2734/W/16/3156691

The Paddock, Whitegate Lane, Marton-le-Moor, North Yorkshire, HG4 5AT

- 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 Mrs H Sutcliffe against the decision of Harrogate Borough Council.
 - The application Ref 16/00521/FUL, dated 8 February 2016, was refused by notice dated 13 May 2016.
 - The development proposed is 2 new houses on land to the rear of the property.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The Council's Notice of Decision cites 3 reasons for refusal. However, the *Statement of Common Ground*, agreed between the Council and the appellant, confirms that reasons for refusal 2 and 3 are no longer supported by the Council. It now considers that the concerns raised by reason 2, regarding the potential impact on a water main that crosses the site, could be satisfactorily resolved through the imposition of a condition requiring the main to be diverted. As regards reason for refusal 3, it no longer considers it appropriate to seek tariff style contributions for small scale development such as that which is proposed. Furthermore, in its appeal statement the Council has confirmed the withdrawal of the element of its reason for refusal 1 related to Affordable Housing. The Council has confirmed that, following a Court of Appeal judgement on 13 May 2016, it no longer requires Affordable Housing contributions in relation to developments of the size proposed in this case and so it consider that Policy H5: Affordable Housing of the *Harrogate District Local Plan, 2001* (LP), is no longer relevant in this case.
3. The withdrawal of reasons for refusal 2 and 3, and the reduction in the scope of reason 1 were taken into account by the appellant in her pursuance of the appeal. I consider that it would be unlikely to prejudice the interests of anyone if I were to take the same approach and so I have.

Main Issues

4. I consider that the main issues in this case are the effect of the proposal on the character of the locality and housing supply.
-

Reasons

5. The main section of the appeal site comprises part of a field, which is situated alongside the built up area of the village of Marton-le-Moor. The field, which is irregular in shape, adjoins: residential development to the west, north and northeast; Chapel Lane to the south, beyond which there is agricultural land; and, to the east, beyond a section of access track which also forms part of the appeal site, more fields. Based on the evidence before me, I consider that the undeveloped appeal site is properly considered as countryside adjoining the built up area of the village, rather than part of the village itself.
6. The proposal involves the erection of 2 new residential properties, which would be accessed from Chapel Lane along the existing access track to the east of the field.
7. The proposal would conflict with Policy SG2 of the *Harrogate District Core Strategy* (CS), adopted in 2009, as Marton-le-Moor is not one of the settlements it identifies as suitable to accommodate growth. It would also conflict with CS Policy SG3, as it seeks to limit development in the countryside to certain types, with which the proposal does not fit. However, the Council has indicated that those settlement growth policies were based on a target housing requirement of 390 dwellings per annum, rather than the 557 dwellings per annum that are required according to the results of the Council's *Harrogate Borough Council Strategic Housing Market Assessment, September 2016* (SHMA16). Under these circumstances, the Council has indicated that these Policies can be regarded as being out-of-date. I agree and consider that little weight should be given to the identified conflicts with CS Policies SG2 and SG3.
8. The *National Planning Policy Framework* (the Framework) confirms that, in circumstances where relevant policies of the Development Plan are out-of-date, for decision taking the presumption in favour of sustainable development means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Character of the locality

9. LP Policy C2 seeks to protect existing landscape character. The site lies within Area 76 'East of Ripon Farmland' in the *Harrogate District Landscape Character Assessment* (HDLCA), which indicates that development pressure for housing in the area is likely to increase, due to the proximity of the A61 and the A1 for commuting. As a guideline, it indicates that new residential development must respect vernacular and settlement pattern. This approach is reinforced by CS Policy SG4, which requires, amongst other things, that development is well integrated with neighbouring buildings and complementary to the spatial qualities of the local area. The reasoned justification for the Policy confirms that '*this does not mean that new proposals should replicate the design, density and character of surrounding development. Indeed, in terms of new housing development, the Council will be encouraging higher densities than those of typical suburban housing*'. This is reflected in the wording of the Policy itself, which requires that development: makes the most efficient use of land; and, is appropriate to the form and character of the settlement and landscape. Similarly LP Policy HD20 requires development to respect the local

- distinctiveness of settlements and their landscape setting, and make a positive contribution to the spatial quality of the area.
10. In the respects identified, these Development Plan Policies are consistent with the aims of the Framework, which indicates that whilst decisions should not attempt to impose architectural styles or particular tastes, it is, however, proper to seek to promote or reinforce local distinctiveness.
Material considerations include: overall scale, density, massing, height, landscape and layout of new development in relation to neighbouring buildings and the local area more generally. It indicates that decisions should address the integration of new development into the natural and built environment, and should recognise the intrinsic character and beauty of the countryside. Furthermore, it gives encouragement to the efficient use of land.
 11. The Grange, which is a Grade II Listed Building, is a relatively substantial property situated towards the middle of the village. Its surroundings and the village in general is characterised by a much finer grain of development. The buildings closest to the appeal site comprise semi-detached 2-storey dwellings, including barn conversions, and a number of bungalows, with modest gardens for the most part. Notwithstanding that the locality may not always have been characterised by a relatively fine grain of development, it gives the village an attractively intimate and compact appearance in its countryside setting.
 12. In stark contrast, the proposal would involve the development of the 0.65 hectare appeal site to provide 2 large detached houses, each with a detached garage and substantial curtilage. In housing density terms the proposal, which would have a density of development significantly lower than that which predominates in the village, would not amount to an efficient use of land. It might be argued that the extensive curtilages of the 2 proposed dwellings would provide a gradual transition between built development and the open countryside. However, that is not a characteristic of the village, with built development most commonly set back by relatively short distances from boundaries with the countryside beyond. In my judgement, the proposed development, which would be clearly visible from Chapel Lane, would not respect the settlement pattern and would have the appearance of an awkward, sprawling addition to it, which would detract significantly from the character of the village.
 13. Whilst a copse of trees is located centrally on the site, it is relatively small in terms of both height and spread. Therefore, in my view, an appropriate root protection area would be likely to take up only a small area of the site. Furthermore, its capacity to overshadow parts of the site, to the detriment of residential amenity would be small, and problems associated with leaf fall would be unlikely to be significant, not least as a number of the trees appear to be evergreen. Under these circumstances, I do not agree with the appellant that the copse would prevent a higher density of development than that which is proposed.
 14. I acknowledge that, if viewed in isolation, the design of the proposed buildings themselves would be reasonably in keeping with local vernacular and it would be possible to ensure that the materials used in the external surfaces of the buildings would also be, through the imposition of a suitable condition.

15. Nonetheless, I conclude overall that the proposal would cause substantial harm to the character of the locality, which weighs heavily against the scheme. Furthermore, in this respect it would conflict with the aims of CS Policy SG4, LP Policies C2 and HD20 and the Framework.

Housing supply

16. In its Appeal Statement the Council indicated that, with reference to its *Housing Land Supply Update July 2016* and a non-published assessment undertaken in September 2016, it was able to demonstrate the 5 year supply of deliverable housing sites required by the Framework. However, the appellant has drawn attention to a recent appeal decision Ref. APP/E2734/W/16/3153512, in which the Inspector found, following detailed consideration, that the Council was not able to demonstrate the required 5 year supply. Under these circumstances, I consider, having regard to the aim of the Framework to boost significantly the supply of housing and that the appeal scheme only provides for 2 dwellings, the proposal's contribution towards housing land supply attracts moderate weight.
17. The Framework indicates that in order to create sustainable, inclusive and mixed communities, local planning authorities should, amongst other things, plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Consistent with that requirement, CS Policy C1 seeks to ensure that development meets community needs. The *Harrogate Borough Council Strategic Housing Market Assessment, September 2015* (SHMA15), recommends that the focus of new market housing, 85%, should be on 2 and 3 bed properties. It suggests that 10% of the remainder comprise 1-bed and only 5% comprise 4+bed properties. The proposed erection of 2 no. 4+bed dwellings would not be consistent with the overall mix of housing recommended by the SHMA15 or the identified focus of future supply.
18. The appellant has identified that the indicative mix of housing referred to in support of a housing scheme for which outline planning permission has recently been granted on the northern edge of the village, at Village Farm, included 2 no. 3-bed dwellings and 3 no. 4+bed dwellings. If that scheme and the appeal proposal were considered together, it would equate to a housing mix comprising around 70% 4+bed properties, still significantly different from that advocated by the SHMA15.
19. I give little weight to the appellant's assertion that it would not be viable to building 2-3 bed dwellings on the site, based on a belief that demand for such housing is lower in this rural area. This is not supported by any formal assessment of either viability or local demand that has been submitted in evidence. Furthermore, the appellant identified that the indicative mix of housing referred to in support of the Village Farm scheme, referred to above, includes some 3-bed dwellings. This would suggest they may be viable.
20. However, whilst it will no doubt inform the preparation of the emerging *Harrogate District Local Plan*, it has yet to be established whether the housing mix recommended by the SHMA15 will be translated into Policy, which might otherwise indicate how it would be applied to individual development sites. Under these circumstances, I consider that its recommendation should be applied in a flexible manner. Although the proposed erection of 2 no. 4+bed dwellings would not be consistent with the overall mix of housing

recommended by the SHMA15 or the identified focus of future supply, it would provide a type of housing for which the SHMA15 has identified a need, albeit limited. In my judgement therefore, the scheme would not conflict with CS Policy C1 and the conflict with the housing mix promoted by the SHMA15 does not weigh significantly against the scheme. My finding in this regard is consistent with that of my colleague who determined appeal Ref. APP/E2734/W/16/3148175, which relates to a site elsewhere in the Borough.

21. Whilst the appeal site was one of a number of sites around the edge of the village identified as suitable for residential development in the Council's *Strategic Housing and Economic Land Availability Assessment 2016* (SHELAA), I understand that it has not been included in the draft allocations associated with the emerging Development Plan documents. However, I give this emerging position, which may change, little weight.
22. I conclude overall that, whilst the proposal would be unlikely to conflict with CS Policy C1 or undermine the Council's housing supply strategy, the 2 dwelling scheme would provide little benefit in terms of housing supply. I give the benefits of the scheme in that regard moderate weight.

Other matters

23. The Framework gives encouragement to sustainable economic growth. The appellant has suggested that the '*proceeds from the development*' would be recycled into the '*Estate*', thereby supporting economic growth. However, more specific details are not given and there appears to be no guarantee that the proceeds from the development would benefit the local economy. I give the appellant's unsupported assertion in relation to this matter little weight.
24. Whilst future residents of the appeal site would be likely to use services and facilities in the local area to some extent, I have not been provided with any evidence to show that that support is necessary to maintain the viability of any local services or facilities, or to show that those residents would be likely to maintain or enhance the vitality of a rural community to any significant degree. I give these factors little weight. The proposal would be likely to provide some benefit to the local economy, for example related to: construction expenditure, employment and potentially skills training; and, residents' spending. However, the impact of construction activity would be relatively short lived and the number of residents likely to occupy the 2 dwellings would not be large. In my view the benefits would be unlikely to be significant. The scheme would give rise to the payment to the Council of a New Homes Bonus, estimated by the appellant to amount to around £0.03m. I consider overall that the benefits of the scheme in these respects attract limited weight.
25. The appellant has indicated that whilst outline planning permission was granted for the erection of 5 dwellings on the site in the 1970s, it has since lapsed. That scheme is self-evidently materially different from the proposal before me, both in terms of the number of dwellings and the planning policy context. I consider the previous grant of outline planning permission to be of little relevance.

26. I note that the Parish Council's objection to the scheme did not cite its impact on the character of the locality. Nonetheless, a number of local residents did object to the scheme on that basis.
27. The appellant has suggested that a higher density of development than that which is proposed may result in a higher level of local objection regarding the likely impact on highway safety. Even if that were the case, it would not automatically follow that a higher density of development would be unacceptable. That would be a matter for the Council to consider in the first instance, in consultation with the Highway Authority. Furthermore, I consider it likely that, given the size of the site, a higher density of development could be accommodated without having an unacceptable impact on the living conditions of existing and future residents.
28. I give little weight to the appellant's unsupported assertion that future residents of the proposed dwellings would be likely to employ gardeners and cleaners to help maintain their properties.
29. Whilst I understand that the village is on a bus route between Ripon and York, based on the appellant's evidence, the daily frequency of buses is low. I consider it likely therefore, that future residents would be heavily reliant on the use of a less sustainable mode of transport, the car, to reach jobs, shops and services. Therefore, the proposal would not fit well with the aims of CS Policy EQ1, which seeks to minimise travel by car, in keeping with the aims of the Framework.
30. I share the view of the Council and the appellant that the scheme would be acceptable in relation to its effect on: the living conditions of neighbouring residents, not least due to the separation distances involved between dwellings; and, highway safety. In these respects the proposal would not conflict with CS Policy SG4 or LP Policy HD20.

Conclusions

31. I give little weight to the identified conflicts with CS Policies SG2 and SG3, as the Council has indicated that they are out-of-date. Furthermore, I understand that the Council is unable to demonstrate the 5 year supply of deliverable housing sites required by the Framework and it follows that the weight attributed to the identified conflicts with other Policies relevant to the supply of housing, such as CS Policy SG4, LP Policies C2 and HD20, would be greatly reduced, as they would not be considered up-to-date under the terms of paragraph 49 of the Framework. Nonetheless, having regard to the economic, social and environmental impacts of the scheme, I conclude on balance, it is likely that the benefits of the proposal would be significantly and demonstrably outweighed by the harm that it would cause to the character of the locality. Under these circumstances, it would not amount to sustainable development under the terms of the Framework. Furthermore, I consider that it would also conflict with the Development Plan taken as a whole. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR