
Appeal Decision

Site visit made on 28 March 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 19 April 2017

Appeal Ref: APP/E2734/W/17/3166949

Field west of Entourage Plc York House, Wetherby Road, Long Marston, YO26 7NH

- 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 Entourage Plc against the decision of Harrogate Borough Council.
 - The application Ref 16/02455/FULMAJ, dated 14 June 2016, was refused by notice dated 23 November 2016.
 - The development proposed is construction of landscaping bund and attenuation drainage lagoon.
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Decision

1. The appeal is allowed and planning permission is granted for construction of landscaping bund and attenuation drainage lagoon at field west of Entourage Plc York House, Wetherby Road, Long Marston, YO26 7NH in accordance with the terms of the application, Ref 16/02455/FULMAJ, dated 14 June 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: YOH16A-location plan; YOH15D-sections; YOH14D-hard and soft landscaping details; and, 84-01-400B-embankment GA.
 - 3) Notwithstanding condition no. 2) above, no development shall commence until details of a landscaping scheme, including the planting of trees and shrubs and the use of surface materials, have been submitted to and approved in writing by the local planning authority. The scheme shall specify materials, species, tree and plant sizes, numbers and planting densities as well as a programme for implementation of the scheme. The approved scheme shall be carried out in accordance with the agreed details and programme.
 - 4) Any trees or plants, planted in accordance with the approved landscaping scheme required by condition no. 3) above, which within a period of 5 years from the completion of the implementation of the approved landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 5) No vehicles associated with the implementation of the scheme hereby approved shall travel between the highway and the application site until
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details of any measures required to prevent surface water from the site discharging onto the highway together with a programme for the implementation of those measures have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme.

- 6) No vehicles associated with the implementation of the scheme hereby approved shall travel between the highway and the application site until details of precautions to be taken to prevent the deposit of mud, grit or dirt on the public highway by vehicles travelling to and from the site together with a programme for the implementation of those measures have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme.
- 7) No development hereby approved shall take place until a Written Scheme of Investigation of the site for archaeological interest shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions - and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 8) No development hereby approved shall take place other than in accordance with the Written Scheme of Investigation approved under condition no. 7) above.
- 9) Notwithstanding condition no. 2) above, the development hereby approved shall not include an island within the attenuation drainage lagoon. Prior to the commencement of the development hereby approved, amended plans shall be submitted to and approved in writing by the local planning authority showing the omission of the island. The development shall be carried out in accordance with these amended plans.

Application for costs

2. An application for costs was made by Entourage Plc against Harrogate Borough Council. This application is the subject of a separate Decision.

Main Issue

3. I consider that the main issue in this case is whether the benefits associated with the proposal would be sufficient to justify development in the countryside, with reference to the impact on the character of the local landscape.

Reasons

4. The appeal site comprises a field that fronts onto the northern side of Wetherby Road. It shares the southern section of its eastern boundary with the site of the York House warehousing/office building, previously known as the Encore Direct site. Other surrounding land on the northern side of the highway is in agricultural use. Opposite the southwestern corner of the site, on the other side of Wetherby Road, there is a small group of buildings, which appear to be in residential use. Otherwise neighbouring land on that side of the highway is predominantly in agricultural use.
5. The proposal involves the formation of a drainage attenuation lagoon, which would be situated towards the southwestern corner of the appeal field and would serve the York House site, and an L-shaped landscaped bund. The bund, which would be around 1.2 metres high and 18.2 metres wide, would extend across the southern side of the site and up its western side, set back from the southern and western boundary hedgerows by a short distance. The southern section of the bund would be interrupted part way along its length by an access point leading from the highway to the main area of the field.
6. I deal first with the likely effect on the character of the local landscape. Policy C2 of the *Harrogate District Local Plan, 2001* (LP) indicates that development should protect existing landscape character. Policy SG4 of the *Harrogate Borough Council Core Strategy, 2009* (CS) seeks to ensure, amongst other things, that development is appropriate to landscape character and that visual amenity is protected and where possible enhanced. The reasoned justification for the Policy confirms that it applies to development proposals in the countryside and indicates that development with a significant adverse effect on visual amenity will be resisted. CS Policy EQ2 also seeks the protection, and where possible enhancement, of the District's landscape character. Although these local Policies were adopted before the publication of the *National Planning Policy Framework* (the Framework), the Framework confirms that it does not automatically follow that such policies are out of date. I consider that, insofar as these Policies seek to ensure that account is taken of the intrinsic character of the countryside, they are consistent with the aims of the Framework and not out of date.
7. The appeal site is located on the southern edge of Landscape Character Area (LCA) 103 identified by the *Harrogate District Landscape Character Assessment, 2004* (HDLCA). Key characteristics of LCA 103, identified by the HDLCA, include large arable fields without formal boundaries in many places and a landform which rises gradually northwards. The HDLCA gives encouragement to measures to screen the Encore Direct site through appropriate woodland planting and seeks to ensure that any tree planting introduced into the area is appropriate in scale and location to the valued characteristics of this area; that is, its openness and productivity. The land that adjoins the southern side of Wetherby Road, opposite the appeal site, falls within LCA 104, key characteristics of which include medium to large arable fields, bound by fragmented hedges with occasional hedgerow trees, blocks of woodland and an undulating topography.
8. Unsurprisingly, given its border location, the appeal site and the neighbouring land exhibit features of both LCA 103 and 104. Whilst the appeal site is a large arable field with ground rising from south to north, when seen from Wetherby

Road, its boundaries appear to be well defined by hedgerows along its southern and western sides and by hedgerow and tree planting along the section of its eastern boundary shared with York House. Although the relatively low hedgerow along its southern, roadside boundary allows long distance views to the north, in contrast, that frontage is flanked: to the west by a tall hedgerow along the southern side of the adjacent field; and, to the east by trees along the frontage of the York House site, which interrupt views to the north. Opposite the site on the southern side of the highway, a tall hedgerow interrupts views to the south.

9. I have had regard to the *Landscape and Visual Impact Assessment, April 2016* (LVIA) submitted by the appellant and the Council's comments upon it. In my judgement, the principal vantage points from which the scheme would be seen are: from the dwellings that front onto the southern side of the highway opposite the site, the residents of which are likely to be high sensitivity receptors; and, people travelling by vehicle past the site frontage along Wetherby Road, who are likely to be low sensitivity receptors.
10. The proposed drainage lagoon would be unlikely to be visible from outside of the site. The establishment of a belt of woodland, along the proposed bund, would not reflect the general character of LCA 103. However, it would be in keeping with the character of LCA 104, which abuts the southern side of Wetherby Road, and a row of trees is already in place along the frontage of the York House site. Furthermore, the proposed planting, at least when in leaf, would restrict views of the York House site, in keeping with the aims of the HDLCA. Under these circumstances, I consider that the proposed planting would be appropriate to the landscape character and would enhance visual amenity, in keeping with the aims of LP Policy C2 and CS Policies SG4 and EQ2.
11. Given the angular profile of the proposed bund and absence of any similar land forms in the vicinity of the site, I consider that the Council's description of the bund as an engineered and alien feature was appropriate. However, although it would be long, it would be low profile and would occupy only a relatively narrow strip of land along 2 sides of the field, leaving the main body of the field open and available for productive use. The southern section would be broadly comparable in height to the frontage hedgerow. From Wetherby Road and the dwellings opposite the site on the southern side of the highway, the parts of the southern bund that are visible would be seen against a background of the higher areas of the field further north. In the main, the western section of the bund would be seen together with a taller adjacent hedgerow which runs along much of the western boundary of the site. In this context, the visual impact of the proposed bund would be likely to be moderately adverse if considered in isolation. However, this impact would be mitigated to an extent by the proposed planting along the bund, at least during those parts of the year when the planting is in leaf. I consider overall, that the visual impact of the scheme would be slight adverse.
12. I conclude overall that the scheme, with particular reference to the proposed bund, would not protect existing landscape character and in this respect it would conflict with LP Policy C2 and CS Policies SG4 and EQ2. However, the associated harm would be slight.
13. I turn now to the benefits of the scheme. The Council has confirmed that proposed attenuation drainage lagoon would meet the requirements of

planning permission Ref. 14/04775/FULMAJ as regards limiting the surface water discharge from the neighbouring York House site to 4.95 litres/second, thereby significantly reducing the flow rate from the site and reducing the risk of flooding. Furthermore, it has indicated that the Ainsty Internal Drainage Board is satisfied with the design and technical aspects of the drainage arrangements. In this respect, as well as reducing flood risk, the proposal would facilitate the approved extension of the neighbouring commercial facilities for which planning permission Ref. 14/04775/FULMAJ was granted.

14. The bund would be formed using material excavated in order to form the foundations of the building extension for which planning permission Ref. 14/04775/FULMAJ has been granted at the neighbouring York House site. The Council acknowledges that the local use of this excavated material, thereby avoiding the need for it to be removed and the associated heavy goods vehicle movements along the wider highway network, would be a clear benefit of the scheme. I agree.
15. The proposed planting and lagoon would enhance the habitat for wildlife hereabouts. In this respect it would accord with the aim of CS Policy EQ2 to increase wildlife habitats. Furthermore, the Council's ecologist does not object to the scheme, subject to the requirements to ensure that: the proposed lagoon would not include an island, as this may attract nesting water fowl, leading to poor water quality and reduced potential to support other wildlife; and, other tree species are substituted for the proposed Ash trees, the provision of which would be prohibited by a Plant Health Order (2012). I consider that these matters could be satisfactorily secured through the imposition of suitable conditions.
16. Turning to other matters, the Council has indicated that it would be necessary to control the pattern and species of planting along the bund, to ensure that it would not unduly impact on the forward visibility of highway users. I consider that it would be possible to provide planting that would soften the visual impact of York House, while maintaining adequate forward visibility and that this could be secured through the imposition of landscaping conditions.
17. In my judgement, the properties situated opposite the southwestern corner of the site on the southern side of Wetherby Road, are likely to be sufficiently distant such that the proposed development would be unlikely to have a significant effect on the light they receive and, whilst curtailing long distance views, the proposed planting would not appear unduly dominant when seen from there. I consider that the proposal would respect the amenity of nearby residents, in keeping with the requirements of LP Policy HD20. The Council has determined that there would be no significant impacts on residential amenity and this adds further weight to my finding in relation to this matter.
18. I understand that the appeal site is likely to comprise grade 2 agricultural land, which falls within the definition of best and most versatile agricultural land set out in the Framework. The Framework also indicates that local planning authorities should seek to use areas of poor quality land in preference to higher quality land where significant development of agricultural land is necessary. However, in this case a relatively small area of a field would be taken up by the development, which would be unlikely to significantly reduce economic or other benefits arising from the use of the field as agricultural land. Furthermore, with reference to the HDLCA, it appears unlikely that relocation of the works to

a different position neighbouring the York House site would have a different impact, as grade 2 agricultural land is common hereabouts. Under the circumstances, I give little weight to the loss of best and most versatile agricultural land which would be likely to result from the scheme.

19. Notwithstanding that the appeal scheme would harm the character of the local landscape, contrary to LP Policy C2 and CS Policies SG4 and EQ2, the associated harm would be slight. I consider on balance that the benefits of the scheme would outweigh that limited harm and the conflicts with the Development Plan. In my judgement, having had regard to the economic, social and environmental impacts of the scheme, it would amount to sustainable development under the terms of the Framework.

Other matters

20. Whilst the appellant has drawn my attention to 2 previous appeal decisions related to schemes that included landscape bunds, they are not directly comparable to the proposal before me, not least as they involved taller bunds in other parts of the country. The appellant has also referred to 2 cases for which the Council has granted planning permission for development which included bunds. However, I do not know the full circumstances of those cases and, based on the evidence provided, it is not self-evident that those other proposed bunds are similar to the appeal scheme, which involves a bund with an engineered appearance, due to its angular profile. I consider that the examples cited by the appellant are of little relevance in this case.

Conditions

21. The Council has suggested 9 conditions which it considers should be imposed in the event of planning permission being granted. I have considered them in light of the advice set out in the national *Planning Practice Guidance* and where necessary have amended the suggested wording in the interests of clarity, precision and enforceability. In addition to the normal commencement condition, a condition would be necessary, in the interests of clarity, to ensure that the works would be carried out in accordance with the approved plans, unless other conditions indicate otherwise. Conditions would be necessary, in the interests of visual amenity, ecology and highway safety, to control the proposed landscape planting. Conditions would be required, in the interests of highway safety, to ensure that surface water from the site would be prevented from running onto the road and to ensure that vehicles travelling to and from the site would not deposit mud, grit or dirt onto the highway. Also in the interests of ecology, a condition would be necessary to ensure that an island would not be constructed in the proposed lagoon. As the local area is of potential archaeological interest, , in the interests of the historic environment, conditions would be necessary to secure investigatory works within the site.

Conclusions

22. For the reasons given above, I conclude that the appeal should be allowed.

I Jenkins

INSPECTOR