The Planning Inspectorate

Appeal Decision

Site visit made on 5 April 2017

by Beverley Doward BSc BTP MRTPI

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

Decision date: 28 April 2017

Appeal Ref: APP/E2734/W/16/3164715
Land at Rossett Green Lane, Harrogate, HG2 9LH

- 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 Berkeley DeVeer against the decision of Harrogate Borough Council.
- The application Ref 16/02825/OUTMAJ, dated 30 June 2016, was refused by notice dated 25 November 2016.
- The development proposed is described as "outline application for residential development of up to 22 no. dwellings (all matters reserved)".

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form with all matters reserved for future consideration. The Council considered the proposal on this basis. Therefore so shall I.

3. The planning application was accompanied by a number of plans including a layout plan and elevations plan. The Planning Statement submitted with the planning application indicates that all of the plans submitted with the application with the exception of the site location plan are indicative. In their appeal statement the appellant refers to a draft Parameters Plan. The Council indicates that this plan was submitted late in the application process and after it had indicated that the planning application would be refused. The Council considers that if this plan was to have been considered, a new planning application would have been required showing a reduced line plan. It also considers that the development would be very different in density and character if 22 dwellings were to be located on that part of the site indicated on the parameters plan and that further formal consultation would have been needed with consultees and local residents. There is no evidence to indicate how a revised layout could work within the parameters indicated. Furthermore, if I were to determine the appeal on the basis of the parameters plan I consider that it is possible that the interests of parties who might wish to comment would be prejudiced[1]. Accordingly, I have determined the appeal on the same basis as the Council, taking the layout plan submitted with the planning application into account for indicative purposes.

[1] Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

4. The Council indicates that at the time of its determination of the planning application it could demonstrate a five year supply of housing land but that it has since recalculated its housing land supply and that the supply figure has dropped below 5 years to 4.95 years. Accordingly, it states that this has the effect of fully engaging paragraph 49 of the National Planning Policy Framework (the Framework) as it cannot now demonstrate a five year supply of deliverable housing sites.

Main Issue

5. The main issue in this case is the effect of the proposed development on the character and appearance of the area, having regard to the Crimple Valley Special Landscape Area (SLA), the public rights of way and the trees and hedgerows on the site.

Reasons

Planning Policy Context

6. The development plan for the area comprises the Harrogate District Local Development Framework Core Strategy (2009) (Core Strategy) and the saved policies of the Harrogate District Local Plan (2001, as altered 2004) (Local Plan). The Council's single reason for refusal refers to a number of policies that it considers relevant to this appeal.

7. Local Plan policy C2 indicates that development should protect existing landscape character. Policy C9 of the Local Plan states that long term protection will be afforded to a number of Special Landscape Areas (SLAs). It also indicates that within these areas new development that would adversely affect the character of the landscape or the landscape setting of Harrogate will not be permitted and, where development is allowed, high standards of design and, where appropriate, measures to mitigate the impact of development will be required. Policy EQ2 of the Core Strategy seeks to protect and enhance the built and natural environment, including biodiversity and landscape character, giving special protection towards those areas and buildings of recognised importance.

8. Core Strategy policy SG4 seeks, amongst other things, to ensure that the scale, density, layout and design of all development proposals makes the most efficient use of land; is well integrated with, and complementary to, the spatial qualities of the local area and is appropriate to the form and character of the settlement and/or landscape character. Policy HD20 of the Local Plan sets out a number of design principles expected of development proposals including a positive contribution to the spatial quality of the area and respect for that area's character and landscape setting.

9. Policy R11 of the Local Plan seeks to retain rights of way and the opportunities they afford for informal recreation when affected by development proposals. It also seeks to resist developments which would result in harm to the character or recreational and amenity value of existing rights of way and would not involve the satisfactory diversion of the route. Local Plan policy HD13 indicates that proposals which would involve the loss of trees or woodland which contribute to the character or setting of a settlement will not be permitted.

10. The appellant questions the relevance of policies SG4 of the Core Strategy and HD20 of the Local Plan in this case given that the proposal is in outline form

with all matters reserved. The appellant also refers to a recent appeal decision[2] elsewhere in Harrogate Borough and to the findings of the Inspector in that case in relation to the relevance of policy HD20 of the Local Plan to an application for outline planning permission and the status of, and weight to be given, to policies SG4 and EQ2 of the Core Strategy and C2 and C9 of the Local Plan by virtue of the Council not having an adequate housing land supply. I return to these matters below.

Character and appearance

11. The appeal site comprises four fields which extend to around 3ha to the south of Rossett Green Lane on the southern edge of Harrogate. To the north east of the site, on the southern side of Rossett Green Lane, is a site which was previously occupied by a bungalow and is currently in the process of being redeveloped for four dwellings. To the south west is a large residential property set in a substantial plot and to the south are open fields. The frontage of the site along Rossett Green Lane is partially enclosed by a low stone wall, the remainder being enclosed by post and wire fencing. The outer boundary of the site is generally formed by post and rail fencing, with broken vegetation forming internal field boundaries.

12. There are a number of mature trees and hedgerows on the site located primarily on field boundaries and the perimeter of the site. There is also a small stone building that is in a somewhat neglected state on the northern part of the site. A number of public rights of way cross the site. Public right of way no.15.54/76/1 runs in a south easterly direction through the site from Rossett Green Lane joining with two others (nos. 15.54/76/2 and 15.54/135/1) which respectively continue to Pannal village to the south-east and Yew Tree Lane to the south-west.

13. The site slopes from higher ground in the north to lower ground in the south. The fields to the northern part of the site are rolling in nature whilst to the southern part the gradient steepens and the fields become more undulating. The fields which form the appeal site comprise part of the larger expanse of attractive rural landscape to the south of Harrogate.

14. The appeal site lies within the Crimple Valley SLA indicated in policy C9 of the Local Plan. The supporting text to this policy states that the area covers a large section of the southern fringes of Harrogate. It states that in the west around Beckwithshaw the area comprises a richly textured and attractive rural landscape with excellent wide ranging views over large areas of open countryside to the west and south of the town. It also states that the northern slopes of the Crimple Valley provide a natural and definitive edge to the town and that there is a close relationship between the edge of the built-up area and landform. It goes on to state that the valley with its woodland, rights of way network and golf courses provides for a variety of recreation activities. It also indicates that this area of landscape is especially important because it serves to separate Harrogate from Pannal and Spacey Houses.

15. The Council's Landscape Character Assessment 2004 (LCA) indicates that the site lies within Character Assessment Area 60: the Upper Crimple Valley. The appellant does not dispute that the character of the appeal site is generally typical of the Upper Crimple Valley description. In particular it is accepted that

[2] APP/E2734/W/16/3153512 Land off Ripon Road, Killinghall

it has some of the key characteristics of the description. These include good tree cover with individual trees scattered along field boundaries, small blocks of woodland and clumps of trees that help to integrate the urban edge at the edge of Harrogate, landform and tree cover that unifies the area despite varying field size and shape, the influence of the urban edge of Harrogate and Pannal and public footpath connections, connecting settlements across open land.

16. The LCA identifies that the Upper Crimple Valley area has a number of sensitivities and pressures. In particular it states that the area contains a large amount of scattered settlement, particularly along the south facing north valley side and that as a result the landscape has limited capacity to accept additional development without adverse change to its character. It also indicates that footpaths in the area are well-used and sensitive to erosion and degradation. Accordingly, the LCA includes the aim of protecting the character of the area and its role in separating Harrogate from Pannal and providing a rural setting to the urban edge indicating specifically that the impact on views in the area must also be considered.

17. The evidence indicates that reviews of the SLAs were undertaken in 2008 and 2011. The 2008 review assessed landscape sensitivity and concluded that the part of the SLA comprising the appeal site was of medium sensitivity within an overall sensitivity banding of high to low. It defines medium sensitivity areas as areas of very attractive landscape that provide land of 'exceptionally high' landscape quality and contribute 'distinctively' to the landscape setting of the town. The 2011 review made specific judgements about whether individual fields and smaller parcels of land (most of them being close to the urban edge) were suitable for designation. It did not propose any changes to the SLA boundaries in relation to the appeal site and its overall findings, which were consistent with the 2008 review, were that the SLAs should remain as an important policy tool in protecting and enhancing the character of the settlements of Harrogate, Knaresborough and Ripon.

18. Although there are existing dwellings along both sides of Rossett Green Lane the appeal site lies outside the built up area and within a transitional area between the more rural area to the west and the urban/suburban area to the east. It has the typical characteristics of the Upper Crimple Valley as described in the Council's LCA and is representative of and consistent with the Crimple Valley SLA.

19. The appellant indicates that the Council's Strategic Housing and Economic Land Availability Assessment 2016 (SHELAA) identifies the site as a potential housing site stating that 'development of the site that respects the scale and grain of adjoining development and respects the rural setting of the area may be acceptable'. However, I note that the appeal site has not been included as an allocation in the emerging Local Plan. Accordingly, this matter does not serve to add weight in favour of the appeal proposal.

20. I saw from my site visit that there are only a limited number of points along Rossett Green Lane where the SLA abuts the lane. I also saw that due to the topography of the site and the wider surrounding area, extensive views are afforded of the countryside to the south and south east from both the footway alongside Rossett Green Lane and from the public right of way which is accessed from the lane and crosses the site. Accordingly, whilst the appeal site

forms only a small part of the SLA it forms both an important and integral part of the SPA.

21. I appreciate that the appeal proposal is in outline form and that all other matters including appearance, landscaping, layout and scale are reserved for future consideration. Nevertheless, having regard to the submitted indicative layout plan, it seems to me that the development of the site for up to 22 dwellings as proposed would inevitably result in built form infilling the existing open pastoral gap at the edge of the settlement and extending southwards, beyond the existing building line of the dwellings on the south side of Rossett Green Lane, into the area of attractive open countryside which provides the rural setting to the southern edge of Harrogate and serves to separate Harrogate from Pannal. These are key objectives of the SLA.

22. As detailed above the LCA indicates that in relation specifically to the Upper Crimple Valley the impact on views in the area must also be considered. The submitted Landscape and Visual Impact Assessment (LVIA) indicates that no landscape receptors would experience significant adverse effects post mitigation. However, from the evidence and from what I saw on my site visit, it seems to me that the impact of the proposed development would, as suggested by the Council, be more significant than that suggested by the appellant.

23. In particular I note that in relation to View No 2 the LVIA did not consider the users of the footway on Rossett Green Lane who, as indicated above, currently experience extensive views of the countryside within the SLA which would be lost or damaged by the proposed built form. Whilst in relation to View Nos 6[3] and 7[4] I consider that the effects of the development on the respective receptors would, as suggested by the Council, be likely to be substantial. Near distance views of the proposed development from View No 6 would significantly restrict the open views into the pastoral valley side to the south west and from View No 7 would undermine the openness of the valley side pastoral landscape and change the character of the footpath, which is clearly well used, from one which is essentially rural in character to one which would be far more suburban. Whilst I acknowledge that from the southern part of the public right of way views into the development would be somewhat restricted by the slope of the land, this effect would diminish as the users of the right of way travel north, the extent of which would depend upon the final layout. Furthermore, there would be substantial adverse effects from the additional viewpoint identified by the Council (roundabout and access link into Pannal Business Park from the A61 Leeds Road) by the introduction of built form into the valley side SLA.

24. Accordingly, the visual impact of the proposed development, particularly on the southerly most parts of the site would therefore be substantial and even with new planting in and around the development would appear as a prominent incursion of urban development into the SLA which would cause substantial harm to its character and integrity and erode the rural character of the southern edge of Harrogate.

25. The existing trees and hedgerows on the site make a significant contribution to the character and appearance of the SLA and to the setting of the urban edge

[3] View from residential properties with rear facing elevations facing the site
[4] View for pedestrian receptors on the public rights of way internal to the site

of Harrogate. I note that the Council's Arboricultural Officer, whilst expressing significant arboricultural concerns about the proposal, indicating that a high number of significant trees would be directly and indirectly harmed as a result of the development, did not formally object to it. I also note that he indicated that a number of matters would need to be addressed at the reserved matters stage. I appreciate that the appeal proposal is in outline form and that access and layout would be determined as reserved matters. However, from the evidence before me I cannot be satisfied that it would be possible to design a scheme that would avoid harm to the existing trees and hedgerows on the site. Given the contribution that the existing trees and hedgerows make to the character of the SLA and the setting of this part of the urban edge of Harrogate, any harm to them would cause material harm to the existing character of the landscape. Furthermore, whilst the public rights of way that cross the site would be retained, their character would become far more suburban than is currently the case thereby causing harm to both their character and amenity value.

26. Taking account of all of the above therefore, notwithstanding that the access, appearance, landscaping, layout and scale of the development would be reserved for future consideration, I conclude that the appeal proposal would cause substantial harm to the character and appearance of the area, having regard to the Crimple Valley Special Landscape Area (SLA), the public rights of way and the trees and hedgerows on the site. Accordingly, it would be contrary to Core Strategy policy EQ2 and policies C2 and C9 of the Local Plan as a development that would harm local landscape character and the Crimple Valley SLA. It would also be contrary to policy HD13 of the Local Plan which seeks to ensure the retention of trees or woodland which contribute to the character or setting of a settlement and policy R11 of the Local Plan as it would harm the character and amenity of nearby public rights of way.

27. I agree with the appellant that given the outline form of the proposal, policies SG4 of the Core Strategy and HD20 of the Local Plan referred to by the Council are not directly relevant in this case as they deal with matters of detail including design, scale and layout.

Other matters

28. The Council Officer's report refers to the impact of the proposed development on the wider setting of the heritage assets of Pannal Conservation Area albeit does not refer specifically to this matter in either its reason for refusal or its appeal statement. As the decision maker I am required to have regard to the statutory duties in relation to designated heritage assets namely in this case to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The larger area of open land within which the appeal site lies forms part of the wider rural setting of the conservation area. However, whilst I have found above that the proposed development would cause harm to the character and integrity of the SLA and erode the rural character of the southern edge of Harrogate, the extent to which the proposal would specifically impact on the setting of the heritage asset would be limited, given the degree of separation between the appeal site and the conservation area. Accordingly, any significance that the conservation area derives from its setting would not be diminished by the proposed development and I find no specific harm in this regard.

Planning balance and Conclusion

29. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration.

30. Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development. It goes on to state that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. There is no dispute in this case that Council cannot demonstrate a five year housing land supply.

31. The Council does not express a view as to whether it considers any of the policies referred to in its reason for refusal as relevant for the supply of housing. However, I am mindful that, in the appeal decision at Killinghall referred to above, the Inspector found policies EQ2 of the Core Strategy and policies C2 and C9 of the Local Plan, which as indicated above are relevant in this case, to be relevant policies for the supply of housing and that therefore in the light of the Council's inability to demonstrate a five year housing land supply they cannot be considered to be up-to-date. I agree with this view.

32. In such circumstances paragraph 14 of the Framework is engaged which indicates that for decision-making purposes this means where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted 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; or specific policies in the Framework indicates that development should be restricted.

33. I have found above that the appeal proposal would cause substantial harm to the character and appearance of the area, having particular regard to the Crimple Valley Special Landscape Area (SLA), the public rights of way and the trees and hedgerows on the site. In these respects it would conflict with Core Strategy policy EQ2 and policies C2 and C9 of the Local Plan. Although these policies are not up-to-date I concur with the view of the Inspector in the Killinghall decision that policies EQ2 of the Core Strategy and C9 of the Local Plan may still be afforded moderate weight as they have a wider purpose in seeking to protect the Borough's landscapes although in the case of policy C2 of the Local Plan this should be afforded limited weight as its effect is to preclude development. The proposal would also be contrary to policies HD13 and RD11 of the Local Plan. These policies reflect the core planning principle of the Framework that planning should take account of the different roles and character of different areas and attract considerable weight.

34. There would be economic and social benefits arising from the development of up to 22 dwellings within an area where there is an acknowledged absence of a five year supply of housing land, albeit in this case the shortfall in the five year land supply is not significant. There would also be spin-off economic and social benefits through employment in construction jobs and by increased local spending and support for local services. Accordingly, I afford these benefits cumulatively considerable weight in favour of the proposal.

35. However, taking everything into account in my judgement the adverse impacts of granting planning permission in this particular case in relation to the substantial harm to the character and appearance of the area, having regard to the Crimple Valley Special Landscape Area (SLA), the public rights of way and the trees and hedgerows on the site would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development.

36. Overall, therefore the proposal would not represent sustainable development and is contrary to the development plan.

37. For these reasons, therefore the appeal should be dismissed.

Beverley Doward

INSPECTOR