

Appeal Decision

Inquiry held on 3 May 2017

Site visit made on 4 May 2017

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 13 June 2017

Appeal Ref: APP/G2713/W/16/3161503

Land to the east of York Road, Easingwold, North Yorkshire

- 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 Jomast Developments Limited against the decision of Hambleton District Council.
 - The application Ref 15/02419/OUT, dated 26 October 2015, was refused by notice dated 25 April 2016.
 - The development proposed is the construction of up to 80 dwellings, convenience store, petrol filling station and healthcare uses.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of up to 80 dwellings, convenience store, petrol filling station and healthcare uses at Land to the east of York Road, Easingwold, North Yorkshire, in accordance with the terms of the application, Ref 15/02419/OUT, dated 26 October 2015, subject to the schedule of conditions attached.

Preliminary Matters

2. The application is in outline with permission sought for access. Layout, scale, appearance and landscaping are reserved. This is the basis upon which I have determined this appeal.
3. Prior to the opening of the inquiry North Yorkshire County Council and the Appellant signed a Statement of Common Ground (SoCG) dated 28 March 2017, in which the County Council withdrew its objection relating to educational infrastructure. Consequently, in another SoCG dated 12 April 2017, between Hambleton District Council and the Appellant, the Council confirmed that it would no longer be pursuing the educational element of its reasons for refusal.
4. The 12 April SoCG also stated that, subject to viability, the development would consist of not less than 50% of all units as affordable housing, which it was agreed could be secured by way of planning condition. It went on to say that, subject to delivery of the affordable housing being secured via an appropriate mechanism, the Council no longer relied on this reason for refusal.
5. Another SoCG between the Council and the Appellant dated 11 April 2017 agreed that the Council could demonstrate a 5 year housing land supply, although the number of years' supply available was disputed.

6. At the hearing the Council and the Appellant reached agreement on all proposed conditions to be imposed in the event the appeal was allowed. These conditions resolved the Council's remaining concerns, which related to the release of the site for housing-led development and the provision of health service infrastructure. The Council also confirmed that it was satisfied that an appropriate mechanism had been established for the delivery of affordable housing. On that basis, the Council offered no evidence to the inquiry.

Main Issues

7. Having taken account of all evidence before me, including that from interested persons, and having visited the site and walked and driven around the surrounding area, I consider the main issues to be the effect of the proposal on employment, the principle of restraint and infrastructure.

Reasons

Loss of employment

8. Although the site is designated in the Hambleton District Allocations Development Plan Document of December 2010 for employment-led development, it is clear from the evidence of the Appellant's employment/economic witness that there is little prospect of this site coming forward for employment uses. I accept this evidence. The site is in a sustainable location and the proposed development would deliver significant social and economic benefits. Consequently, in accordance with the National Planning Policy Framework (NPPF) paragraph 22 and Policy DP17 of the Hambleton Development Policies Document of February 2008, the site should not be retained for employment purposes.

Principle of restraint

9. Policies CP5, CP5a, CP6 and the principle of housing restraint in Easingwold contained in the Hambleton Core Strategy of April 2007 are now out of date, having been based on Regional Spatial Strategy figures and priorities, which are no longer extant. Consequently, in accordance with the NPPF, paragraph 14 and the "*presumption in favour of sustainable development*" are engaged. Whilst the Council can demonstrate a five year supply of housing, this is not a maximum target, and the proposal would boost the supply of housing and provide choice. Therefore, the Core Strategy principle of housing restraint in Easingwold is no longer justified.

Infrastructure

10. In relation to educational infrastructure capacity, Yorkshire County Council said in its SoCG that its original objection was based on two developments proceeding, namely that of the Appellant and that of another developer for 163 dwellings nearby. Upon the latter withdrawing its proposals, and the County Council obtaining forecasts of reduced pupil numbers, its objection was resolved. From the evidence before me, I am satisfied that potential pupil numbers generated by the development could be adequately accommodated in existing schools.
11. As for healthcare facilities, the development would include the provision of 1,800 sqm of land to accommodate 1,200 sqm of floor space for GP and community health services. This is the amount of space the relevant NHS

consultee indicated was needed in her letter of 3 April 2017. The development would also attract Community Infrastructure Levy payments, which could be used for healthcare. For these reasons I am satisfied that this level of provision would adequately contribute to the additional healthcare needs generated by the development.

12. Affordable housing would be provided at the level of 50% of all units, subject to viability. The parties have agreed that attached condition 20 provides an appropriate mechanism to secure its delivery and they have supported this with a note on how the condition is policy compliant. I accept their reasoning and I am satisfied that appropriate provision has been made for affordable housing.

Other Matters

13. Interested persons have raised a number of objections, some of which relate to matters that will be addressed in detail at reserved matters stage, such as soft and hard landscaping.
14. The impact on drainage is a concern for some. However, there is no technical evidence before me to suggest there are issues that cannot be resolved by condition and there are no objections from the Internal Drainage Board, the Environment Agency or Yorkshire Water.
15. Whilst some local residents have objections on highway and parking grounds, the development will provide parking, and highways and travel plan conditions are imposed to give the Council greater control. No objections have been raised by the Highways Agency.
16. Having considered these other matters, I conclude that there are none that could not be overcome.

Conditions

17. I have assessed the conditions agreed by the parties, and am satisfied that they are in conformance with paragraph 206 of the NPPF. Where appropriate, I have made minor amendments to some conditions in the interest of clarity and enforceability.
18. Conditions relating to the definition and submission of reserved matters, commencement, approved plans and phasing have been imposed to comply with legislation and in the interests of certainty. Conditions are incorporated relating to boundary treatments, levels and "Secured by Design" principles to ensure the satisfactory development of the site. Conditions relating to biodiversity, trees and existing hedges are included for ecological and amenity reasons. In the interests of climate change, a sustainable energy condition is imposed, and for environmental and health and safety reasons there are conditions regarding land contamination, water mains, sewers, drainage, surface water, highways layout/construction and travel plans. To protect the living conditions of nearby residents and the environment a construction method statement is imposed, and to promote public amenity there is an open space condition. To ensure appropriate housing is provided and secured an affordable housing condition and a housing size/type/tenure condition is included. To make appropriate provision for healthcare land, a condition is imposed requiring a healthcare land scheme to be submitted.

Conclusion

19. I find that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the NPPF taken as a whole. Therefore, in the context of the relevant development plan policies and having considered all matters raised, I find that the development is acceptable subject to the imposed conditions. Accordingly, the appeal is allowed.

Elizabeth C. Ord

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton of Counsel
He called no witnesses

FOR THE APPELLANT:

David Hardy LLB(Hons,
BCL(Hons)(Oxon) Solicitor
Advocate

He called

Martin Lytollis BSc,
FRICS

Jon Saddington
BA(Hons), Dip(Town
Planning) MRTPI

Director of Lambert Smith Hampton

Managing Director of Saddington Taylor

INTERESTED PERSONS:

Darren Dalzell
Peter Nottage

Practice Manager of Millfield Surgery
Chairman of Easingwold Town Council

DOCUMENTS

- 1 Notification
- 2 Appellant's opening
- 3 Agreed note on affordable housing condition
- 4 Indicative plan of medical centre site
- 5 Draft conditions
- 6 Written questions from D Dalzell
- 7 Written answers from Appellant

Schedule of Conditions

1. Definition of Reserved Matters

No development shall be commenced until details of the following have been submitted to and approved by the Local Planning Authority: the external appearance of each building, including a schedule of external materials to be used, the landscaping of the site, the layout and the scale of the development ("the reserved matters"). The number of dwellings shall not exceed 80.

2. Submission of Reserved Matters

An application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

3. Commencement

The development hereby permitted shall be begun either before i) the expiration of three years from the date of this permission; or ii) the expiration of two years from the date of the last of the reserved matters to be approved, whichever is the later.

4. Approved Plans

The permission hereby granted shall be undertaken in accordance with the following approved drawings:

Site Plan, South Site as Existing (drawing number 150-05 rev 03)

Location Plan, South Site as Existing (drawing number 150-04 rev 03) Proposed Site Access (Drawing No. 3357/SK001/001 Rev A)

5. Boundary Treatments

No development shall take place above foundation level until details relating to boundary walls, fences, hedgerows and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter, all boundary walls, fences, hedgerows and other means of enclosure shall be constructed/planted in accordance with the approved details and retained for the lifetime of the development, and no part thereof shall be removed without the prior written consent of the Local Planning Authority.

6. Levels

No development shall be commenced until detailed cross sections have been submitted to and approved in writing by the Local Planning Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form for the lifetime of the development.

7. Secured by Design

No development shall take place above foundation level until details that show how 'Secured by Design' principles have been incorporated into the scheme have been submitted for the written approval of the

Local Planning Authority and once approved the development shall be implemented in accordance with the approved 'Secured by Design' details prior to occupation or use of any part of the development hereby approved.

8. Biodiversity

No development shall take place above foundation level until a detailed scheme for the implementation of the mitigation measures outlined in the submitted Phase 1 Habitat Survey & Protected Species Assessment and its subsequent update Assessment produced by Brindle & Green, has been submitted to and agreed in writing with the Local Planning Authority. The development shall be implemented in accordance with the agreed scheme and programme for implementation.

9. Trees

No development shall be commenced until a plan has been submitted to and approved by the Local Planning Authority to show all existing trees which are to be felled or retained together with the positions and height of protective fences, the areas for the storage of materials and the stationing of machines and huts, and the direction and width of temporary site roads and accesses. The development shall be implemented in accordance with the approved details.

10. Existing Boundary Hedge

No part of the existing boundary hedge along the south, east and western boundaries of the site shall be uprooted or removed and the hedge shall not be reduced below a height of 2.5 metres other than in accordance with details that have been submitted to, and approved in writing by the Local Planning Authority.

11. Sustainable Energy

At least 10% of the energy supply of the development shall be secured from decentralised and renewable sources or otherwise through design measures. Details of physical works on site, shall be submitted to, and approved in writing by the Local Planning Authority as part of the reserved matters submissions. The approved details shall be implemented in accordance with the approved timetable and retained thereafter for the lifetime of the development.

12. Land Contamination

No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11 (or any update or revision thereof), has been submitted to and approved in writing by the Local Planning Authority. A scheme for the remediation of any contamination shall be submitted to and approved in writing by the Local Planning Authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a validation report detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.

13. Divert Water Mains

Unless otherwise approved in writing by the Local Planning Authority, no construction of buildings or other structures shall take place until measures to divert the water mains that are laid within the site

have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

14. Sewer Easement

Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the sewers, which cross the site and there shall be no new tree planting within 5 metres of a public pipeline.

15. Separate Drainage Systems

The site shall be developed with separate systems of drainage for foul and surface water on and off site.

16. No piped Discharge of Surface Water

No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water, other than the public sewer, have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority before development commences.

17. Highways

No development shall take place until details of the proposed highway layout and construction including a timetable for their delivery have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details. The details shall include but not be limited to:

- a) Road, cycleway and footway construction;
- b) Lighting;
- c) Surfacing;
- d) Materials;
- e) Drainage;
- f) Access, turning and parking (to include a protected right-hand lane with ghost island on York Road).

18. Construction Method Statement

No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) the hours of work
- b) the parking of vehicles of site operatives and visitors
- c) loading and unloading of plant and materials
- d) storage of plant and materials used in constructing the development

- e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- f) wheel washing facilities
- g) measures to control the emission of dust and dirt during construction
- h) a scheme for recycling/disposing of waste resulting from construction works; and
- j) access arrangements for emergency vehicles during the construction phase.

19. Travel Plans

No dwelling in the development hereby approved shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include the objectives, targets, mechanisms and measures to achieve the targets, implementation timescales, provision for monitoring, and arrangements for a Travel Plan co-ordinator, who shall be in place until 5 years after the completion of the development. The approved plan shall be audited and updated and submitted for the approval of the Local Planning Authority at intervals no longer than 18 months. The measures contained within the approved plan and any approved modifications shall be carried out in full.

20. Affordable Housing

The development shall not begin until a scheme for the provision of affordable housing, as defined in Annex 2 of the National Planning Policy Framework (2012) or any future guidance that replaces it, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide that 50% of the dwellings to be constructed on the site shall be affordable housing unless relevant viability evidence shows that delivery of 50% affordable housing would make the remainder of the residential scheme unviable. The affordable housing shall be provided in accordance with the approved scheme, which shall include:

- i. The numbers, size, type, tenure (to meet the standards of the Size, type and tenure SPD) mix, and location on the site of the affordable housing provision to be delivered;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider at the Council's agreed transfer price as defined in the Council's Affordable Housing SPD or any additional or successive planning policy document adopted by the Council or to ensure that the affordable housing is affordable to both first and subsequent occupants; and
- iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing, and the means by which such occupancy criteria will be enforced.

21. Housing size, type and tenure

The development shall not begin until the details of the size, type and tenure of the market housing units have been approved in writing by the Local Planning Authority. The sizes of dwellings shall be equal to or greater than the sizes set out in the Council's Size, type and tenure Supplementary Planning

Document (the SPD) and the type and tenure of housing shall be in accordance with the details within the SPD. Development shall be implemented in accordance with the approved details.

22. Public Open Space

No development shall take place until a scheme for the provision of on-site open space has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of the laying out and construction of the open space, the equipment to be provided on the open space, a timetable for its provision, and arrangements for its future maintenance. The open space shall then be provided and maintained in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.

23. Phasing

Full details of the phasing of the construction of the development hereby approved including, but not limited to, a site layout plan identifying the proposed location and timing of construction of the dwellings, convenience store, petrol filling station and healthcare uses, the provision of internal roads, footpaths, cycleways and public open space, temporary highway and pedestrian routings shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of development. The development shall be carried out only in accordance with the phasing details approved under this condition.

24. Healthcare land

(a) No development shall take place until a scheme relating to land on which the healthcare facilities hereby approved are to be located as part of the development ("the healthcare land scheme") has been submitted to and approved in writing by the Local Planning Authority.

The healthcare land scheme shall provide for but not be limited to:

- (1) The identification of 1,800 sqm (shown on the indicative layout plan marked SK01) of land (including provision for vehicular, cycle and pedestrian access, drainage, electricity, mains water, mains gas and telecommunications services) sufficient to accommodate 1,200sqm of floor-space located over not more than 2 floors for GP, community health and associated services;
- (2) Details relating to availability of the healthcare land including management and maintenance.

(b) For a period of 2 years following the approval of the healthcare land scheme, the healthcare land shall be used for no purpose other than for GP, community health and associated services.