



Appeal Decision

Site visit made on 13 June 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 17 July 2017

Appeal Ref: APP/N2739/W/17/3171222

Glenholme, Kellington Lane, Eggborough, DN14 0LB

- 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 Mr & Mrs Thornton against the decision of Selby District Council.
 - The application Ref 2016/1259/OUTM, dated 20 October 2016, was refused by notice dated 18 January 2017.
 - The development proposed is described as outline planning permission (including means of access) to erect a residential development following the demolition of the existing dwelling 'Glenholme' and the backfilling of the recently constructed fishing pond (re-submission of 2015/1299/OUT).
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The application subject of this appeal is in outline with all detailed matters, except access, reserved for future consideration.

Main Issues

3. I consider that the main issues in this case are: the effect of the proposal on the character and appearance of the local area, including the setting of the village of Eggborough; the effect of the appeal scheme on the spatial development strategy for the area; and, whether the proposal would amount to sustainable development under the terms of local and national policy.

Reasons

Background

4. The appeal proposal is a re-submission of a scheme which was the subject of appeal decision Ref. APP/N2739/W/16/3149401 issued by the Planning Inspectorate on 22 August 2016. That appeal was dismissed principally on the basis that: the Council was able to demonstrate a deliverable 5-year housing land supply; the scheme would conflict with the spatial development strategy for the area; and, it would cause significant harm to the character and appearance of the local area. This decision is a significant material consideration in the case before me.
 5. In determining this case I have also had regard to the recent Supreme Court judgement on *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another*
-

(*Respondents*) v *Cheshire East Borough Council (Appellant)*, which has been drawn to my attention by the Council and the appellants.

Character and appearance

6. Glenholme is a residential property which is situated part way along a short ribbon of development that fronts onto the western side of the section of Kellington Lane just to the north of its junction with Selby Road. This ribbon of development is situated on the western edge of Eggborough. The land to the west of both that ribbon of development and the rest of Kellington Lane to the north lies outside the designated development limit of the settlement, within the countryside. This includes the main appeal site area (MASA); an L-shaped parcel of land, which is situated to the rear of Glenholme and wraps around the southern and western boundaries of the garden of a neighbouring property, Cirrhus House. The predominantly grassed MASA also contains a large pond. With the exception of a small row of terraced houses to the west of the MASA, its immediate surroundings and the wider area to the north and west are generally characterised by open agricultural land. The MASA is separated from development to the south, in the form of a railway and small industrial estate, by a field and Station Lane, which runs alongside the southern boundary of that part of the site.
7. The planning application form identifies that the proposal involves backfilling the pond and the erection of up to 45 dwellings on the site, which would be accessed from Kellington Lane through the Glenholme site, necessitating demolition of that property.
8. Policy SP19 of the *Selby District Core Strategy, 2013* (CS) requires new development to have regard to local character, settlement patterns and the open countryside and indicates it should not compromise local distinctiveness or character. Policy ENV1 of the *Selby District Local Plan, 2005* requires account to be taken of the character of the area, when considering proposals for development. These Policies are consistent with the aims of the *National Planning Policy Framework* (the Framework). I understand that draft *PLAN Selby* evidence document entitled '*Settlement Setting Landscape Assessment*', January 2016, indicates that the area within which the appeal site is located is of medium sensitivity to development, an assessment not disputed by the appellants.
9. As the MASA abuts the rear of the ribbon of development that includes Glenholme, the proposed dwellings would not appear divorced from the settlement. Furthermore, there is no dispute that it would be possible to ensure that the relationship between the dwellings within the site would be appropriate, through the control of layout, scale, appearance and landscaping at the reserved matters stage. Nonetheless, even if the development was limited to single-storey dwellings and notwithstanding the existing planting along its boundaries, which could be added to, it is likely that the development would be visible from the elevated section of Selby Road to the south, the public right of way alongside the southern boundary of the site as well as from parts of Kellington Lane and Weeland Road to the north. When seen from those public vantage points, the proposed development would appear to jut out into the countryside part way along the otherwise relatively uniform western edge of the settlement, which currently provides a visually robust and attractive countryside setting to that edge of the village. In my judgement, it

would be likely to have an awkward and incongruous appearance, creating an irregular and discordant urban edge, which would detract significantly from the character and appearance of the area, including the setting of the village.

10. The MASA is the subject of extant planning permission Ref. 2007/00661/FUL for the construction of a coarse fishery pond and associated toilet/office block and car parking. Whilst the pond has been constructed, the building and car parking has not. I consider that even if this were to be fully implemented, together with some holiday accommodation envisaged by the appellants, such as caravans or log cabins, it would not be as harmful as the more intensive residential development proposed.
11. In my judgement, the housing scheme for which planning permission was granted at appeal Ref. APP/N2739/W/16/3151448 elsewhere on the edge of Eggborough is materially different from that before me. That other site fronts onto the northern side of Weeland Road, opposite existing residential development, on the other side of the highway, and a short distance to the west of development that fronts onto the northern side of Weeland Road. In contrast with the backland development before me, which would appear to jut awkwardly into the countryside, the approved scheme would appear to fit in with existing pattern of roadside development when entering and leaving the village. Under the circumstances, my colleague's conclusion that the scheme before them would not result in significant harm to the character and appearance of the area or the setting of the village does not weigh in favour of the scheme before me. The site identified as EGG/4, for which the Council granted planning permission in 2015, is also materially different from that before me. Development of that other site, which fronts onto the southeastern side of a highway and abuts development to the southwest and southeast, would appear to round off the settlement pattern thereabouts. Under these circumstances, I give little weight to the grant of that planning permission.
12. I conclude that the proposal would cause significant harm to the character and appearance of the local area, including the setting of the settlement. In this respect it would conflict with CS Policy SP19, LP Policy ENV1 and the aims of the Framework. My finding with respect to the likely impact on the character and appearance of the local area is consistent with that of my colleague who determined appeal Ref. APP/N2739/W/16/3149401.

Spatial development strategy

13. CS Policy SP2 indicates that development in the countryside (outside development limits) will be limited other than in certain specified circumstances, which do not apply in the case before me. It follows that, insofar as it involves development outside of the defined development limits of the village, which involves the largest part of the site, the proposal would conflict with CS Policy SP2 and it would undermine the spatial development strategy for the area.
14. Whilst the appellants have made reference to the Council's *Five Year Supply Guidance Note for Applicants*, published in January 2017, I do not know the status of that document. Furthermore, it appears, based on the Council's appeal submissions, that it has changed its view regarding the weight to be afforded to CS Policy SP2, such that the guidance note is no longer up to date. Under the circumstances, I give the guidance note little weight.

15. However, unlike the circumstances of appeal Ref. APP/N2739/W/16/3149401, in the case before me the Council has confirmed that it is now unable to demonstrate the 5-year supply of deliverable housing sites required by the Framework. Furthermore, the appellants have indicated that of the existing LP allocations for Eggborough, those that are deliverable are already complete or pending planning permission. This has not been disputed by the Council and I have no reason to believe that this situation is unusual in the LP area. Based on the evidence presented¹, I consider it likely that previously defined development limits may well need to be relaxed to some extent, if the housing objective of boosting significantly the supply of housing, set out in the Framework, is to be met. Under these circumstances, I give little weight to the conflicts identified with CS Policy SP2 and the current spatial development strategy for the area.
16. I conclude that whilst the proposal would conflict with CS Policy SP2 and would undermine the spatial development strategy for the area, under the particular circumstances in this case, this would not be sufficient to justify withholding planning permission.

Sustainable development

17. The Framework indicates that if the Council is unable to demonstrate a 5-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date. Furthermore, where relevant policies are out-of-date, 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 of the Framework taken as a whole. The Framework indicates that there are three dimensions to sustainable development: social, economic and environmental.
18. With respect to social benefits, the proposal would make a modest contribution towards addressing the shortfall in the supply of deliverable housing sites. Furthermore, Eggborough is designated in the CS as a Service Village on the basis that it has a good range of local services. Based on what I have read and seen, I consider it likely that a range of jobs, shops and services would be reasonably accessible from the site by modes of transport other than the private car. I also understand that the development would be the subject of a Community Infrastructure Levy, thereby supporting infrastructure in the area. I give moderate weight to those limited benefits.
19. I have had regard to the formally completed unilateral planning obligation provided by the appellants. In relation to Affordable Housing, it indicates that provision would be subject to a viability assessment at the reserved matters approval stage. Therefore, it remains uncertain as to whether any Affordable Housing would be provided and so I give little weight to the potential contribution of the scheme towards the supply of Affordable Housing. Based on what I saw, I consider that the main windows serving habitable rooms within Cirrhus House are likely to be contained within its front and rear elevations. Therefore, the demolition of Glenholme, which is situated to one side of that neighbouring house, would be unlikely to materially improve the living conditions of its residents, with particular reference to outlook and light. I give that matter little weight.

¹ Including the appellants' reference to appeal decision Ref. APP/N2739/W/16/3144900.

20. As regards economic benefits, the proposal would be likely to result in the creation of a number of jobs and some local expenditure associated with the construction of the scheme, albeit of relatively short duration for a development of the size proposed. Future residents would be likely to increase the custom of local businesses, facilities and services to some extent, thereby contributing to the local economy. However, there is no compelling evidence before me to show that the scale of associated spending would be likely to prevent the loss of any particular local business, facility or service or enable any that have recently ceased to operate to resume. I give moderate weight to those limited benefits.
21. As regards likely environmental impacts, having had regard to the Ecological Appraisal Report submitted by the appellants in support of the proposal, it appears to me that any ecological benefits of the scheme would be limited and I afford them little weight. I have already concluded that the scheme would have a significant adverse impact on the character and appearance of the local area.
22. I conclude on balance, with particular reference to the likely impact on the character and appearance of the local area, that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The scheme would not amount to sustainable development under the terms set out in both CS Policy SP1 and the Framework.

Other matters

23. Whilst no neighbouring residents have submitted objections, in my judgement, this cannot be automatically interpreted as a sign of support, as the propensity of neighbours to object can be influenced by a number of factors. I have taken account of the objections from other parties, so far as they raise material planning considerations.
24. Although I have had regard to the appellants' concerns regarding the Council's handling of their planning application, they do not alter the planning merits of the proposal upon which my decision is based. Neither this, nor any other matters raised, is sufficient to outweigh the considerations which have led to my conclusions on the main issues.

Conclusions

25. I have found, having had regard to the likely social, economic and environmental impacts of the scheme, that the proposal would not amount to sustainable development under the terms of the Framework and I consider on balance, that it would 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