
Appeal Decision

Site visit made on 11 November 2019

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2019

Appeal Ref: APP/E2734/W/19/3234093

**Land at Rock Cottage Farm, Farnham, Knaresborough, North Yorkshire
HG5 9JS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant a permission in principle.
 - The appeal is made by RA and NP Chapman against the decision of Harrogate Borough Council.
 - The application Ref 18/05069/PIP, dated 5 December 2018, was refused by notice dated 18 February 2019.
 - The development proposed is the erection of between 3 and 5 dwellings.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal proposal is for a Permission in Principle (PiP). This consent route has two stages, the first stage establishes whether a site is suitable in principle, and the second stage, the technical details consent, is where the detailed development proposals are assessed. The appeal proposal is at the first stage and therefore I have considered the principle of the scheme. Therefore, I have treated the plans that show a site layout and access arrangements as illustrative.
3. The site forms part of the land associated with Rock Cottage Farm. The former farmyard, which is located to the south east of the site, is currently being developed for 9 houses. It is disputed between the parties whether or not any development on the appeal site should be considered in conjunction with this adjacent development and therefore whether or not the application can be considered under the PiP regulations, as together the number of houses proposed on the two sites would constitute "major development", and would therefore fall outside the PiP regime.
4. Given this, the main issues in the appeal are:
 - Whether the proposal can be considered under the PiP regulations having regard to whether the in conjunction with development on the adjacent site the proposal would constitute major development; and
 - If it can be considered as a PiP, whether or not the principle of the proposed development is acceptable.

Reasons

Whether major development

5. The appeal site is an area of open land with steep banking on either side. Although it forms part of the land associated with Rock Cottage Farm it did not appear to have any agricultural use. A right of access to the site, and other adjacent fields owned by the appellant, exists across the former farmyard site to Farnham Lane.
6. Although the adjacent farmyard once belonged to the appellant it is now owned by a housing developer who is currently building houses on it, having been sold in August 2018. Previous to this the appellant's evidence indicates that the farmyard had a variety of uses within it including agricultural buildings, a motor vehicle repair workshop, a commercial cattery and storage of both cars and caravans.
7. Other than having a right of access over this land to the appeal site and other land, it is clear that the appellant no longer owns the farmyard, and this had been the case for several months before the application that is the subject of this appeal was submitted to the Council. I note to this end that the blue line boundary on the site plan for this application and appeal does not include this adjacent farmyard site.
8. Nevertheless, until recently the two sites clearly were owned by the appellant and both formed part of the landholding associated with the farm. Moreover, it is likely that should permission be granted on the appeal site, it too would be sold to a developer, potentially even to the same developer of the adjacent site, with the appeal site being a second phase to the current housing development.
9. The appeal site is significantly lower than the former farmyard and a substantial number of mature trees are located on the banking that results from this difference in height. Whilst these features contribute to a degree of physical and visual separation between the two sites, the appeal site would share the same access as the current housing scheme which would contribute to them being seen as a part of the same development.
10. The Council highlighted that on a recent visit to the site they noticed that spoil and rubble from the development of the former farmyard was encroaching into the appeal site. They suggest this indicates a desire to reduce the difference in levels between the two sites which would increase the physical links between them. However, whilst there may have been some 'spillage' of material during the remediation and ground works, I saw no evidence that there was any systematic attempt to reduce the difference in levels between the two sites. Moreover, any such operation would require significant engineering works that would require planning permission.
11. I accept that at present the lawful use of the sites are different with the former farmyard having permission for housing development. In addition, the former farmyard has been recently been included within the development limits for the village in the emerging *Harrogate District Local Plan (ELP)* whereas the appeal site lies outside these limits. However, this simply reflect the extant permission of the farmyard site, which until was previously also outside the proposed development limits.

12. Bringing these points together, although very finely balanced, overall I consider that two developments are distinct. Thus, the proposal would not represent major development and so can be considered under the PiP regime.

Whether the principle of the proposed development is acceptable

13. The appellant has highlighted that the decision notice did not raise any objections on the planning merits of the case. However, the Council in their appeal statement indicate that they did not consider the planning merits because they had concluded it could not be considered under the PiP regulations, but this did not mean they did not have objections in principle to the proposal. In addition, the Parish Council raised a number of concerns regarding the planning merits of the scheme. Both parties have addressed the planning merits within the evidence submitted for the appeal. Having concluded that the scheme can be considered under the PiP regulations, in determining the appeal, it is necessary for me to consider the planning merits.
14. The development plan currently consists of the *Harrogate District Core Strategy (adopted February 2009)* (CS) and the saved policies of the *Harrogate District Local Plan (adopted February 2001)*. The emerging *Harrogate District Local Plan* (ELP) is now at an advanced stage in its preparation with the consultation on the Main Modifications following the examination having concluded in September 2019. In accordance with paragraph 48 of the *National Planning Policy Framework* (the Framework), although at an advanced stage of preparation, the weight that can be given to policies depends on the extent of unresolved objections to them.
15. Policy SG2 of the CS sets out the settlement hierarchy for the district and the type of development considered appropriate within each type of settlement. Farnham is not listed within the settlement hierarchy and the supporting text to the policy indicates such villages have few services and should not accommodate new market housing apart from suitable conversions of existing buildings.
16. In order to promote a sustainable pattern of rural development, outside of the settlements listed in the hierarchy, Policy SG3 of the CS classifies all other land and settlements as countryside. In this area the policy limits the types of development that will be permitted with the only new build housing considered appropriate being affordable homes for local people. The location of the proposed development would therefore be contrary to this policy within the CS.
17. It is indicated that in the ELP the site lies adjacent to, but outside the settlement boundary for Farnham. Policy GS3 sets out the criteria for when development outside the development limits may be acceptable. This policy was subject to changes in the Main Modifications so that the policy now indicates that, outside the development limits, new developments will only be supported where expressly permitted by other policies of the plan, a Neighbourhood Plan or national planning policy. This is not the case for the appeal site.
18. The Council have indicated that they currently have a 6.89 year housing land supply and this has not been disputed by the appellant. As such, the criteria set out in the Policy GS3 for considering proposals that would be outside the development limits when there is no 5 year housing land supply are not applicable in this case.

19. Consequently, the location of the appeal site means that its development would be contrary to the ELP. However, the appellant has indicated that they have submitted representations regarding the changes proposed to Policy GS3 in the Main Modifications and I am unaware what other objections may have been made during this consultation stage. Thus, whilst the ELP may be at an advanced stage, this limits the weight that I can give to this policy.
20. Nevertheless, the location of the appeal site in the open countryside means that its development for housing would be contrary to policies both within the adopted and the emerging development plan.
21. The appellant has argued that as the site adjoins residential curtilages on much of its boundaries it would represent a natural 'rounding off' of the village. Be that as it may, the village is not identified within the CS as a settlement where 'rounding off' may be appropriate. Similarly, even if I were to agree with the appellants that the size of the development was not disproportionate to the size of the village, Policy SG3 of the CS does not indicate that this is a criterion for allowing development of new housing in the countryside.
22. The scheme would result in the creation of up to 5 houses and so would make a small contribution to housing supply in the area. I accept that the Framework seeks to significantly boost the supply of housing. Nevertheless, given the current housing land supply position, the weight I give this benefit is limited and would not outweigh the conflict with the development plan.
23. Overall, I consider that the location of the proposed permission in principle would be contrary to Policy SG3 of the CS as well as to Policy GS3 in the ELP. Therefore, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR