



Appeal Decision

Site visit made on 18 December 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/G2713/W/19/3238190

Land adjacent A168 Diner, Topcliffe Common, Thirsk YO7 3HW

- 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 Mr Harley (Cliff Court (Redcar) Developments Ltd) against the decision of Hambleton District Council.
 - The application Ref 18/02739/FUL, dated 19 December 2018, was refused by notice dated 19 August 2019.
 - The development proposed is the construction of 2no single storey A1/A3/A5 units, bin store and associated vehicle and cycle parking.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2no single storey A1/A3/A5 units, bin store and associated vehicle and cycle parking at Land adjacent A168 Diner, Topcliffe Common, Thirsk YO7 3HW in accordance with the terms of the application, Ref 18/02739/FUL, dated 19 December 2018, 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: L017025A-001, L018025A-002, L018025A-003, L018025A-004, L018025A-005 and L018025A-006.

Procedural Matters

2. Correspondence has been submitted which confirms that the description of the development on the application form was subsequently amended with the agreement of the appellant. I have therefore used the amended description in the banner header above.
3. During my site visit I noted that a slab has been laid on the appeal site together with parking spaces and other areas of hard surfacing. The positioning and layout of these is not however entirely consistent with the plans that were determined by the Council. For the avoidance of doubt, I have assessed the appeal on the basis of the plans and not on the works that have been undertaken.

Main Issues

4. The main issues are (i) the impact of the proposed development upon the character and appearance of the area and (ii) the principle of the development in this location.

Reasons

Character and appearance

5. The existing service area comprises of a petrol filling station and a recently refurbished coffee shop, with extensive areas of associated parking and hard surfacing. Although the surrounding area is predominately rural in character, by virtue of the dual carriageway and the existing development, the area immediately adjacent to the appeal site is significantly different in its character and appearance and furthermore is enclosed by substantial perimeter landscaping. Overall, the service area has a functional character and appearance, by virtue of its purpose and the nature of the existing buildings
6. The units proposed would be set back into the site and would not be substantial in their general scale. Whilst the coffee shop building and petrol filling station kiosk have pitched roofs, the petrol filling station canopy is flat and therefore there is no prevailing type of roof present. The coffee shop walls are finished in a dark grey colour which is similar to the colour which is proposed on the appeal development. This would ensure that the buildings would visually integrate with one another. The Council has made specific reference to the need for high quality detailing, however the design of the development would be appropriate for the site on which it is located.
7. I conclude therefore that the proposal would not result in harm to the character and appearance of the area. Accordingly, there would be no conflict with the design aims of Policies CP1 and CP17 of the Hambleton Core Strategy 2007 (CS), Policy DP32 of the Hambleton Development Policies 2008 or with the National Planning Policy Framework (The Framework), all of which seek to safeguard character and appearance.

The principle of the development

8. The appeal site is located within an established service area whose predominant function is to provide facilities for those using the surrounding highway network. It is accessed via the existing dual carriageway and as a result of the proposed development there would not be any significant encroachment in to the countryside or a change to the general character or purpose of the wider site. Therefore, notwithstanding that the site is located within a rural location, both the location of the site and the nature of the proposed development mean that it has specific economic and environmental considerations.
9. Policy CP4 of the CS seeks to direct new development to within the development limits of existing settlements, with development only being supported outside of these areas when an exceptional case can be made. Due to the characteristics of the site and the proposal, it can be considered to be exceptional as its specific circumstances mean that it could not reasonably be located in another location, or on a site which falls within a settlement boundary.
10. With respect to the type of development proposed, Policy CP4 contains a further provision relating to there being an essential requirement and in this regard the appellant has provided a letter of support from the occupier of one of the existing units on the site. This does not however provide any substantive evidence that there is an essential requirement for the new development to

take place. Therefore, on the evidence before me I find that an essential requirement for the proposed development has not been demonstrated and I conclude that the proposal would not meet with the objectives of Policy CP4 of the CS in this respect. The Council has referred to Policy CP1 of the CS in its reason for refusal, however I find no conflict with that policy.

Other considerations

11. The Framework is less restrictive than Policy CP4 in its approach to the rural economy, in that it seeks to enable the sustainable growth and expansion of all types of business in rural areas. It recognises that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements. Due to the fact that it does not align with the objectives of The Framework with regard to the rural economy and is more restrictive in its scope, I consider Policy CP4, and in particular its need for an essential requirement for the proposed development to be demonstrated, to be out of date for the purpose of this decision.
12. Paragraph 11 of The Framework states that where the policies which are most important for determining an application are out-of-date, planning 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. In this case there would be clear benefits from the development including the economic and environmental benefits arising from the provision of additional facilities in an established service area.

Conclusion

13. I have found that the proposal would not cause harm to the character and appearance of the area and would be in accordance with the development plan in this regard.
14. Whilst I have found that the principle of development would not be in accordance with Policy CP4 of the CS, I give this conflict limited weight as I have found the policy to be out of date. Furthermore, I have not found there to be any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits arising, when assessed against the policies of The Framework. Accordingly, the presumption in favour of sustainable development applies.
15. I therefore conclude that the appeal should be allowed, subject to conditions.

Conditions

16. The Council has requested a condition relating to the time period for the implementation of the planning permission and I have imposed this along with a condition confirming which plans are approved, as this provides certainty. The proposed external materials are shown on the plans and therefore a condition relating to this matter is not necessary. Given the scale of the development and its location within an established service area, a condition relating to drainage is also not necessary.

Graham Wraight

INSPECTOR