



Appeal Decision

Site visit made on 7 January 2020

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

Appeal Ref: APP/G2713/W/19/3238540

Land off Frendene, Pit Ings Lane, Dalton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Newspan against Hambleton District Council.
 - The application Ref 19/00099/FUL, is dated 9 January 2019.
 - The development proposed is four dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for four dwellings at Land off Frendene, Pit Ings Lane, Dalton in accordance with the terms of the application, Ref 19/00099/FUL, dated 9 January 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matters

2. There was no site address provided on the application form so I have used the site address from the appeal form.
3. I am aware that an appeal for 17 dwellings on the site was previously dismissed¹. However, my understanding is that it related to the whole of the field, of which the current appeal site is only a part. Since then, 5 dwellings and an access road have been constructed in the northern part of the field following permissions from the Council. Given the change in circumstances and the significant difference between the schemes, I have reached my own conclusions on the current appeal scheme on the basis of the evidence and circumstances before me.

Main Issues

4. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. The Council has provided an appeal statement that refers to concerns regarding the proposal's conformance to the Council's Interim Policy Guidance on housing, and in respect of housing mix and flood risk.
5. Accordingly, I identify that the main issues in this appeal are:
 - whether the development would be in an appropriate location for new housing, having regards to the development strategy for the area, and the effect on the character and appearance of the area;

¹ Appeal ref: APP/G2713/W/16/3155159

- whether the development would provide an appropriate housing mix for the area; and,
- whether the development would adequately address flood risk.

Reasons

Appropriate Location

6. The development plan comprises Hambleton's Local Development Framework Core Strategy 2007 (CS) and the Local Development Framework Development Policies Document 2008 (DPD), which are supplemented by more recent Interim Planning Guidance (IPG) for housing. The IPG was adopted in 2015 to update the development plan to align with paragraph 55 of the 2012 National Planning Policy Framework (the Framework). Whilst paragraph 79 of the revised Framework supersedes paragraph 55 of the 2012 Framework, national planning policy in this respect remains largely unchanged. Therefore, although the IPG does not have the statutory status of a development plan, it is a material consideration and I consider that it is broadly in accordance with the Framework, such that it can be given significant weight in determination of this appeal.
7. The appeal site lies outside the development limits of Dalton, contrary to Policy CP4 of the CS and Policy DP9 of the DPD. However, the IPG states that small scale development adjacent to the main built form of the village that results in organic and incremental growth will be supported. It defines small scale as normally up to five units, but states that this is a guide and each development must be considered on its own merits taking into account the unique character and appearance of the settlement.
8. From the information before me, it seems that the nub of the Council's concerns in relation to compliance with the IPG are whether the scheme represents small scale incremental growth, and reflects the existing built form of the village.
9. In 2017 the Council granted outline planning permission for five dwellings in the north of the field². The reserved matters were granted in 2018³. Cumulatively the appeal proposal would result in a total of nine dwellings within this field. The Council has raised concerns that the site has been deliberately subdivided. During my site visit I observed that apart from the final wearing course of the access road, the development of five dwellings was complete and four of the houses appeared to be occupied. I am therefore satisfied that the proposal can be considered in its own right as a development of four units, thereby falling within the IPG definition of small scale.
10. Moreover, Dalton is defined as a Secondary Village, and is therefore classed as a 'sustainable settlement' in the IPG settlement hierarchy. From the evidence and my own observations, the village and the surrounding cluster of villages have a small, but broad range of local services that the development would readily support, as per paragraph 78 of the Framework. Even if taken cumulatively with the five recently built houses to the north, I consider that the development would be incremental growth that would not be inconsistent with the objectives of the IPG and the village's position within the Council's

² 17/01872/OUT

³ 18/00944/FUL

settlement strategy. There is also no evidence that the scale of development would place undue strain on existing or planned infrastructure.

11. The recent development to the north has reduced the size of the field by roughly half with no clear separation from the appeal site. Frendene is no longer the only house on the western side of Pit Ings Lane. As a result, the rural character of the site has already been significantly eroded and it appears to relate more to the existing residential development to the north than it does to the surrounding countryside beyond the well-defined southern hedge line. Taken together with its small scale and the degree of containment provided by the existing houses to the north and east, outbuilding to the west, and the hedge line to the south, I consider that the development would provide a natural infill rather than an encroachment into the countryside.
12. Furthermore, the views through the existing development from the north are very limited. It would be possible to view the development more easily from a footpath to the south, but it would be seen against the backdrop of the existing development, which it would reflect in scale, design and materials, and also among other modern housing. Along with Frendene and the properties to the south of Pit Ings Lane, there would be a relatively uniform built up edge to the countryside. It would better mark a clear transition from village to countryside than what currently exists following the development in the north of the field. The retention of the hedgerow and trees will assist in this respect and their protection during construction can be achieved by way of a planning condition. As such, the development would not adversely affect the built form and character of the village, or the open character and appearance of the surrounding countryside.
13. Drawing the above together, whilst there is conflict with Policy CP4 of the CS and Policy DP9 of the DPD, and I am mindful that the Council has a 5 year housing land supply, Dalton is a sustainable settlement and the development would maintain and enhance local community vitality in accordance with the IPG and the Framework. The IPG and the Framework are material considerations to which I give significant weight. Therefore, for the reasons I have set out, a decision contrary to the development plan is justified in this instance. Accordingly, I conclude that the development would be in an appropriate location for new housing, having particular regard to the development strategy for the area and effect of the development on the character and appearance of the area.
14. In addition, although not referred to by the Council, it seems to me that the proposal would comply with Policy CP1 of the CS and Policies DP10, DP30, DP32, in so far as they seek to achieve development which is of a scale and nature which respects local character, the wider countryside, and the setting of settlements.

Housing Mix

15. The Council states that it is not seeking affordable housing, but is concerned that the development would comprise only large houses that would not be affordable to first time buyers and young adults wishing to stay in the village. It states that 60% of housing, even in small developments, should be 2 and 3 bed, but has not referred to any development plan policies or guidance in this respect, or placed any substantive evidence of the local housing needs before me.

16. Each of the proposed houses would be 3 bed with the first floor accommodation within the roof space. In my judgement, such houses could not easily be described as large, and as they are 3 bed, they would meet the Council's stated requirement in that respect. Furthermore, even though the houses are not strictly bungalows, given the internal arrangement of the accommodation, they would be suitable for occupiers with limited mobility and the elderly. As such, I consider that they would offer a flexible housing type to suit different needs. I am also mindful that they appear to be the same house type approved by the Council at the north of the site.
17. On the limited information before me, I conclude that the development would not provide an unsatisfactory housing mix for the area. In this regard, the development would comply with paragraph 77 of the Framework.
18. In addition, although not referred to by the Council, it seems to me that in this regard the development would be in accordance with the housing mix objectives of Policy CP8 of the CS and Policy DP13 of the DPD.

Flood Risk

19. There is no dispute between the parties that the appeal site is wholly within Flood Zone 1 and is itself not at risk from flooding. However, part of the village further to the north and east, including the main road through the village, is within Flood Zones 2 and 3.
20. I have had regard to the Council's concerns in relation to safe access and escape routes from the development during flooding, given that roads in the village could be submerged by water. However, it appears from the evidence that the Council has approved details of the emergency pedestrian access for the recent development to the north. It is axiomatic that such arrangements would apply in equal measure to the appeal scheme given it would sit cheek-by-jowl with that development and share the same access. Accordingly, I am satisfied that the proposal does not raise any new issues in this respect, and I note the Council did not seek to reimpose conditions requiring further details in its list of suggested conditions.
21. I have also had regard to the appellant's Flood Risk and Drainage Assessment (dated May 2019) and to the drainage strategy therein. Subject to the imposition of an appropriate condition requiring a detailed drainage scheme to be approved, there is no evidence before me to suggest that the proposed development would increase the risk of flooding elsewhere.
22. I conclude that the development can adequately address flood risk. As such, it would comply with paragraph 163 of the Framework.

Other Matters

23. I have had regard to the Parish Council comments regarding parking and traffic, but I note that there were no objections from the local highway authority and that such matters were not raised as concerns within the Council's statement. Even cumulatively with the recent development to the north, the development would be small in scale. It would utilise an existing access and I am satisfied that sufficient parking would be available. The Framework states that proposals should only be prevented on highway safety grounds if there would be an unacceptable impact on highway safety, which has not been identified in this case, so it does not alter my decision.

24. A local resident raised concerns over the construction of a fence and LPG tank, but it seems to me that they are unrelated to the appeal scheme and should be taken up with the Council direct.

Conditions

25. I have considered the Council's suggested conditions in the light of the Framework and the Planning Practice Guidance, as set out below. Where necessary, I have amended the wording to ensure clarity and precision to meet the relevant tests. The appellant has given written agreement to the use of pre commencement conditions in accordance with the Town and Country Planning, England (Pre-commencement Conditions) Regulations 2018 as relating to Section 100ZA(6) of the Town and Country Planning Act 1990.
26. The standard time limit condition as well as a condition that the development is carried out in accordance with the approved plans are necessary for the avoidance of doubt and in the interests of proper planning. A condition regarding drainage is necessary in the interests of flood risk. Conditions regarding the agreement and implementation of boundary enclosures and landscaping are necessary in the interests of character and appearance, notwithstanding some details are shown on the plans. I have imposed an additional condition requiring tree and hedge protection during construction for the same reason.
27. As satisfactory details of external materials and a site compound are shown on the plans, the Council's suggested conditions in this regard would be superfluous, so are not imposed.
28. Given the nature and amount of parking being provided within the scheme, a condition regarding the timing of provision and retention of parking spaces would be unnecessary. Visibility splays are already controlled by condition 10 of outline permission Ref:15/00408/OUT so it is not necessary to repeat the condition.
29. I have not imposed the Council's suggested land contamination conditions because it appears that such matters have already been dealt with by condition 7 of the outline permission Ref:15/00408/OUT and the findings would be equally applicable to the appeal site. There is nothing before me to suggest further investigation is necessary.
30. In light of the small scale of the development, position of the site compound and that there is already a hard surfaced access road to the public highway, I consider that a condition requiring a wheel washing facility would not be reasonable, so it is not imposed.

Conclusion

31. For the above reasons I conclude that, subject to appropriate planning conditions, the appeal should be allowed.

Adrian Caines

INSPECTOR

Schedule of 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: PP02; PP03; PP04; PP05 & PP06.
- 3) Development shall not commence until a detailed scheme for the separate disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the local planning authority. Thereafter the development shall take place in accordance with the approved details.
- 4) All trees and hedges within or which overhang the site shall be protected by strong fencing, the location and type to be previously submitted to and approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered.
- 5) Before any above ground development takes place, a landscape scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include indications of all trees and hedges to be retained and details of planting species, sizes, layout, numbers and measures to ensure establishment.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the occupation of the dwelling to which they relate. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 7) The boundary walls, fences and other means of enclosure for all parts of the development shall be constructed in accordance with details which have first been submitted to and approved in writing by the local planning authority prior to their erection and shall be retained as such.

End of Schedule