

Appeal Decision

Hearing Held on 10 December 2019

Site visit made on 10 December 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/G2713/W/19/3233515

Land off Stockton Road, Thirsk

- 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 Steve Barker against the decision of Hambleton District Council.
 - The application Ref 18/01519/OUT, dated 20 July 2018, was refused by notice dated 15 May 2019.
 - The development proposed is described as "Outline planning permission with all matters reserved (scale, appearance and landscape) except for access and layout for the development of up to 34 no. dwellings along with public open space and related infrastructure."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved except access and layout. I have determined the appeal on this basis.
3. The Council's decision notice related to four reasons for refusal. Refusal reasons 3 and 4 were resolved prior to the Hearing. I have therefore assessed this appeal only on the matters relating to refusal reasons 1 and 2.
4. The submitted evidence makes reference to an emerging Local Plan for Hambleton District Council. I have only given limited weight to this emerging Local Plan as it has not yet been adopted.

Main Issues

5. The main issues are whether the proposal would preserve or enhance the setting, character or appearance of the Thirsk and Sowerby Conservation Area; and whether the proposal would be in a suitable location with particular regard to settlement boundaries.

Reasons

Conservation Area

6. The appeal site is an area of open land with residential properties on Shire Road and Stockton Road located to the north and east respectively. To the west is the area known as The Holmes which comprises Cod Beck and

recreational and open land. The southern part of the appeal site sits within the Thirsk and Sowerby Conservation Area (TSCA).

7. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 193 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
8. The TSCA is characterised by the historic core of Thirsk and Sowerby and incorporates some of the surrounding countryside areas including The Holmes. The area of The Holmes has been defined by the Cod Beck. The Beck has historical importance to the development of the area and has defined the open green spaces and tree belts which sit adjacent to the hard edged built development of Shire Road and Stockton Road. In my view the significance of the TSCA, particularly in the immediate surroundings of the appeal site, is derived from the open space areas located around the Cod Beck which lead into the historic built core of the settlement.
9. The proposal would introduce built development on an infill site resulting in the loss of open space that contributes to the character and setting of the TSCA. The development would follow the existing building line and rhythm of the properties on Shire Road however, the encroachment into the open land of the appeal site would detrimentally constrict the open green space of The Holmes and the area around the Cod Beck.
10. Whilst the existing properties at Shire Road and Stockton Road currently provide a hard edge to the TSCA, the proposal would extend this hard edge of built development into the TSCA having a significant adverse effect on the open character of the TSCA in this location. The proposal would be visible from existing properties as well as from view points from the north, south and west. The proposal would appear dominating and severely enclose the open setting of the area around the Cod Beck.
11. The proposed layout would show low density housing and have properties orientated in different forms, some outward looking to the west. Nevertheless, the proposed buildings would be incongruous features that would have an overbearing effect on the surrounding area, particularly the land to the west. Landscaping would be provided along the west and south boundaries of the site however, any softening that this landscaping provides would not fully screen the development or outweigh the significant intrusion from the encroachment of the proposed built development.
12. I therefore find that the proposed development would not preserve or enhance the setting, character and appearance of the TSCA. The proposal would be in conflict with Policy CP16 of the Hambleton Local Development Framework Core Strategy 2007 (CS) and Policy DP28 of the Hambleton Local Development Framework Development Policies 2008 (DP) which seeks development to preserve or enhance the setting, character and appearance of Conservation Areas and the District's natural and man-made assets.
13. The proposed development would be harmful to the TSCA and thereby the significance of the heritage asset. Nevertheless, I consider the harm would be

less than substantial and in accordance with paragraph 196 of the Framework, that harm should be weighed against any public benefits of the proposal.

14. I have had regard to evidence submitted by the appellant and a number of benefits in which the scheme provides, including providing market and affordable homes in a sustainable location; opening up a private site and creating public open space currently not accessible; and the generation of additional GVA and spending in the local area, Council Tax, New Homes Bonus and funding for infrastructure in the local area. Whilst some of these matters would be standard benefits for a residential scheme of this nature, there are public benefits to the proposal which can be attributed some weight. However, these public benefits would not outweigh the harm to the TSCA which I have identified above.
15. I acknowledge that the appellant considers the development causes less than substantial harm where the harm is at the lower end of the scale. The harm identified above however would not be outweighed by the public benefits. The proposal would, therefore, fail to sustain or enhance the setting, and thereby the significance of, the designated heritage assets. It would not accord with the policies of the Framework which seek to conserve and enhance the historic environment.

Suitable location

16. The appeal site is located outside the settlement limit boundary as designated in the Development Policies and Allocations Development Plan Document 2010. Policy CP4 of the CS identifies Thirsk as a Principal Service Centre within its Settlement Hierarchy table and subsequently promotes development within its settlement limit providing development is of an appropriate scale and nature. Policies DP8 and DP9 of the DP both refer to Policy CP4 and reinforce development within settlement limits and restrict new development outside to certain exceptions.
17. The appellant considers Policies CP4, DP8 and DP9 to be out of date and therefore paragraph 11 of the Framework should be engaged. Whilst it is clear that these policies are focussed primarily on supporting development within settlement limits, they do not completely prohibit development outside the limits, when exceptional cases can be made in line with a list of criteria. I also note that the Council have produced an Interim Policy Guidance (IPG) to align Policy CP4 with the 2012 Framework. Whilst the IPG does not appear to be formally adopted as part of the development plan, its intention is to demonstrate how development should be considered in and around smaller settlements both within and outside the hierarchy to ensure it is sustainable economically, socially and environmentally.
18. The proposed development does not fall within the settlement limit and does not directly accord with any of the exceptions criteria in Policies CP4, DP8 and DP9. Therefore, in the strictest sense, the proposal does not comply with these policies. However, these policies are intended to promote sustainable patterns of development which is a key aim of the Framework, and therefore this element needs to be explored.
19. Thirsk is a settlement which boasts a number of shops, public facilities and services. The appeal site would be within close walking distance to the centre of Thirsk given the proposal would include a new pedestrian link to the south of

the site. Everyday needs of the future residents of the scheme would be met by the existing services that Thirsk has to offer and subsequently these services would be further supported by new residents. Given the close proximity of the site to these facilities, the Frameworks aim to reduce the need to travel would be met. In addition, the proposed development would also accord with Policy CP2 of the CS which seeks development to be located so as to minimise the need to travel.

20. The appeal site lies outside the defined settlement limits and therefore has some conflict with Policies CP4, DP8 and DP9. The site, as described above, would have good access to shops, services and facilities and also with the introduction of a new pedestrian link would improve accessibility links for existing residents in the area. The proposal would therefore serve to promote sustainable patterns of development which is a material consideration that needs to be weighed against the conflict with Policies CP4, DP8 and DP9. Taking all into consideration, having regard to the development plan as a whole, including Policies CP1, CP2, CP5 CP5a, CP6, CP9, CP9a and CP16 of the CS and Policy DP30 of the DP, and the sustainable pattern of development that the scheme would bring, the appeal site would be in a suitable location for a new housing development.
21. A number of appeal decisions¹ have been brought to my attention. I do not consider these other schemes to be directly comparable to the appeal proposal, including in respect of scale of development and location. In any case, I have determined this appeal on its own merits.

Other matters

22. Some concerns have been raised by local residents including highway safety, flooding and drainage, pressure on existing services, need for housing, effect on living conditions of neighbouring occupiers, structural damage to adjacent buildings and effect on wildlife and ecology. I have given careful consideration to these matters, some of which would be capable of being addressed at the reserved matters stage in any event, but they do not lead me to a different overall conclusion on the main issues.

Planning Balance

23. The Council have indicated that they can demonstrate a housing land supply of more than 8 years. This is not disputed by the appellant. The appellant does however consider some of the development plan policies, including Policy CP4 of the CS and Policies DP8 and DP9 of the DP, to be out of date and therefore argues paragraph 11 of the Framework should apply.
24. In terms of the Framework's three overarching objectives, there would be some social benefit in providing additional homes which would contribute to housing choice in the area. There would also be economic and environmental advantages as the proposal would be in a suitable location, promoting sustainable patterns of development and would contribute to local services. Whilst all contributions have a value, these have to be weighed against any identified harm.

¹ PINS reference numbers: APP/G2713/W/18/3198941; APP/G2713/W/16/3161503; APP/G2713/W/19/3223618; APP/G2713/W/18/3196566.

25. Protecting the environment is a key aspect of achieving sustainable development. There would be harm to the setting, character and appearance of the TSCA. The proposal would introduce a discordant development that would result in the loss of important open land and would not preserve or enhance the significance of the designated heritage asset. In terms of these harmful effects on the TSCA, the proposal therefore contradicts development plan policies and the Framework.
26. Taking account of the above factors, and even if it was found that the development plan policies were considered out of date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposed development cannot benefit from the presumption in favour of sustainable development. There are no other material considerations to indicate that the proposal should be determined otherwise than in accordance with the development plan. I have already identified significant conflict with relevant development plan policies.

Conclusion

27. I conclude that for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stuart Natkus	Planning Consultant
Lucie Jowett	Planning Consultant
Steve Barker	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ruth Hindmarch	Hambleton District Council
Caroline Strudwick	Hambleton District Council
Fred Pippet	Hambleton District Council

INTERESTED PERSONS:

David Tonge	Local resident
Andy Watson	Local resident
David Margett	Local resident
Cllr Dave Elders	Local Councillor
Lucy Sherwood	Local resident
Alan Sherwood	Local resident
Des Kendall	Local resident
John Brown	Local resident
Kate Pawlett	Local resident

DOCUMENTS SUBMITTED AT THE HEARING:

1. Extract from Hambleton Local Development Framework Core Strategy 2007 – page 36
2. Extract from Hambleton Strategic Housing Land Availability Assessment – pages 5, 6, 7 and 8
3. Authority Monitoring Report 2017/2018 – Planning Policy