



---

## Appeal Decision

Site visit made on 16 December 2019

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 January 2020**

---

**Appeal Ref: APP/E2734/W/19/3238055**

**Land Comprising Field at 426061 459023, Church Lane, Hampsthwaite**

- 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 The Trustees of Sir Cecil Ackroyd Bt Settlement against the decision of Harrogate Borough Council.
  - The application Ref 17/04924/FUL, dated 6 November 2017, was refused by notice dated 7 June 2019.
  - The development proposed is erection of 5 dwellings with associated parking plus public parking area.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. During the course of the appeal it became apparent that the notifications undertaken in respect of this appeal were incomplete. A further notification process was undertaken by the Council and the period for response was extended. I have taken account of the comments raised.
3. The address and description of the development provided on the planning application form have been replaced by amended versions on the decision notice and in subsequent appeal documents. I consider the subsequent details to be more comprehensive and I have therefore used them within this decision.
4. In its Statement, the Council has referred to a number of policies from the emerging Harrogate District Local Plan (EDLP) which is at an advanced stage in its preparation with the consultation on the Main Modifications following the examination having concluded in September 2019. The appellants have been given suitable opportunity to comment on these policies as part of their response to the Council's Statement.
5. The appellants consider that the EDLP should be given little to less than moderate weight due to matters including the stage of the plan and outstanding unresolved objections. However, I have had regard to the Local Plan Inspector's comments and the nature of the Council's proposed Main Modifications as set out in the evidence before me. There is nothing in this evidence that persuades me that the relevant policies of the EDLP as they apply to the appeal proposal are likely to be subject to significant change. On that basis, and mindful of the advanced stage of preparation of the emerging plan and paragraph 48 of the National Planning Policy Framework (the

Framework), I give the policies of the EDLP significant weight in my consideration of this appeal.

### **Main Issues**

6. The main issues in this appeal are:

- Flood Risk; and
- The effect of the proposal on the character and appearance of the area with due regard to heritage assets.

### **Reasons**

#### *Flood Risk*

7. The appeal site lies within Flood Zone 3 and is considered to be at high risk of flooding. The Framework requires that new development should be directed to areas at a lower risk of flooding by applying a Sequential Test.
8. The appellants have undertaken a Flood Risk Sequential Assessment which is focussed on sites in and around Hampsthwaite. I acknowledge that the Planning Practice Guidance advocates a pragmatic approach when applying the Sequential Test and the appellants refer to the Council's guidance in a Strategic Flood Risk Assessment. I also consider that due to the scale of the development it would not be appropriate that the search area for sites should be district-wide.
9. However, in my view the criteria and area of search for the Sequential Test as used by the appellants are overly restrictive, being based on land within the appellants' ownership in the vicinity of Hampsthwaite. Whilst there may be a demand for housing in this village, it has not been demonstrated that there is an overriding need for housing in this particular location. The Council states that it has a housing land supply in excess of 5 years and refers to planning permissions for housing on sequentially preferable sites elsewhere in this and neighbouring parishes. The evidence therefore suggests that there may be suitable sites for similar housing development in other settlements in the area which may be at lower risk of flooding and which could meet housing need in this area.
10. I therefore conclude that a suitable Sequential Test as required by the Framework has not been undertaken in respect of the appeal proposal. The proposal would therefore be contrary to the Framework with regards to taking account of flood risk. The proposal would also conflict with Policy CC1 of the EDLP with regards to assessment through the Sequential Test.

#### *Character and Appearance*

11. The appeal site is an open field located in a prominent position at one of the main entrances to the village and I saw that it makes an important contribution to the rural character of the village. Whilst the houses would be substantial and of individual designs using traditional materials, the proposal would in effect consist of a small housing estate of a suburban character extending along an access road and parking area.
12. The houses would be set back from Church Lane and an extent of the site would be kept as open space. However, I consider that the built extent of the

development would be readily apparent from Church Lane and the surrounding area, particularly from the nearby churchyard and areas to the north, even allowing for screening provided by existing and proposed landscaping. The proposed access road and parking area would also be readily apparent as man-made features extending from the highway which would add to the harm arising from the introduction of built development into what is currently an open area of pastoral grazing land. Although the proposal would provide an opportunity to introduce further planting, in my view this would lead to a contrived and overly managed landscape in contrast to the current open agricultural appearance.

13. The appeal site is located to the east of the church and churchyard of the Grade II listed St Thomas a Becket's Church. Whilst the appeal site is separated from the church building by the churchyard and screened to a degree by mature trees, I saw that the appeal site makes an important contribution to the setting of the church when viewed from the lych gate and the main pedestrian route leading to the church from the village. The rural setting provided by the appeal site and associated open space also makes an important contribution to the appreciation of the church and churchyard at this entrance to the village. The loss of part of this pastoral setting through built development would therefore harm the setting of the Listed church.
14. The appeal site is within the Hampsthwaite Conservation Area (CA), close to its northern boundary. It is within the 'Church Lane and its environs' sub area as identified in the CA Character Appraisal which also identifies the site as part of an important open space within the CA. This area is the oldest part of the village and includes the imposing entrance to the village across Hampsthwaite Bridge as well as the landmark of the church. Whilst this may represent less than 10% of the area of open space within the CA as referred to by the appellants, this figure does not reflect the significant contribution that the appeal site makes to the importance of the CA as a designated heritage asset. The open space of the appeal site is an important element of the rural setting of the village at this prominent location, and its loss to built development would lead to undue harm to the character and appearance of the village and the CA.
15. The CA Appraisal also identifies a group of buildings of local interest extending along Church Lane. This terrace marks a clear edge to the built form of the settlement and is representative of the tight built grain of this older area of the village. Reference has been made to the importance of this clear edge in views from the north, although I saw that this was not readily apparent in longer distance views due to the screening effect of landscaping and the relationship with the wider backdrop of the village and landscape. However, the edge of the historic form of built development was apparent on entering and leaving the village along Church Lane, and the relatively loose knit suburban form of the proposal on this important open space would diminish the positive effect of the nearby terrace in defining the edge of the village.
16. The appeal site is bounded to the north by the access road to the housing development of St Thomas a Becket Walk which I saw is a modern development of a suburban appearance which does not reflect the character of the historic core of the village. However, rather than tying the adjacent development into the village as contended by the appellants, the proposal would represent the extension of an incongruous and unsympathetic form of development into the oldest and one of the most sensitive parts of the village.

Even allowing for the use of traditional materials, the design and arrangement of the proposed dwellings and access road would contrast uncomfortably with the traditional appearance and grain of development in this historic area of the village to the detriment of the streetscape and the importance of heritage assets.

17. Drawing the above together, I conclude that the proposal would harm the character and appearance of the area and would fail to preserve the character, appearance and setting of heritage assets. Within the terms of the Framework the harm to designated heritage assets would be less than substantial, and in accordance with the Framework I must balance that harm against the public benefits of the proposal. I will address this later in my decision.

### **Planning Balance and Conclusion**

18. The Council accepts that it's adopted development plan policies in respect of the supply of housing are out of date. The Framework indicates that where the policies which are most important for determining the application are out of date, planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits. However, as I have identified harm in relation to policies of the Framework seeking to protect designated heritage assets and address flood risk, these provisions do not apply as such policies provide a clear reason for refusing the development. The application therefore falls to be determined in accordance with the development plan unless material considerations indicate otherwise.
19. I am mindful of the benefits of the proposal and I acknowledge that the proposal would contribute to the supply of housing in the area. However, the Council has stated that it has a housing land supply in excess of 5 years and in that context I give limited weight to the contribution that the proposal would make to housing supply. The appellants emphasise that the Council's housing land supply position has not been independently tested or adopted through the Local Plan. Reference is also made to some minor variation in the housing land supply position as quoted in another appeal. However, there is no substantive evidence before me that the Council is unable to demonstrate a 5 year housing land supply.
20. The construction of the proposal would lead to employment and investment in the locality, although this would be to a limited degree and over a limited period of time. Residents of the proposal would also support services and facilities in the area, although mindful of the number of proposed dwellings this would be to a limited degree. Accordingly, I give these matters limited weight in favour of the proposal.
21. The proposal would provide an area of public and visitor parking and I note that the appellants refer to on-street parking problems in the area. However, this parking area would be in a prominent position to the front of the site and adds to my concerns in respect of the harm to the character and appearance of the area and on heritage assets. On balance, this element of the proposal does not weigh in favour of the development.
22. I have concluded that the proposal would harm the character and appearance of the area and heritage assets. However, whilst the harm to designated heritage assets would be less than substantial, I attach significant weight to that harm. There are no public benefits that would outweigh that harm. The

proposal would therefore conflict with Policies EQ2 and SG4 of the Core Strategy 2009 and HD3 of the Local Plan 2001/04 which together seek to ensure that development is appropriate to the form and character of the settlement and landscape, does not have an adverse effect on conservation areas and should protect the built environment, amongst other things. The proposal would also conflict with the Framework with regards to achieving well-designed places and conserving and enhancing the historic environment. The proposal would also be contrary to Policies HP2 and HP3 of the EDLP with regard to harm to heritage assets and local distinctiveness, and for reasons stated previously I give the conflict with these emerging policies significant weight.

23. I have had regard to the benefits that would arise from the proposal, including the contribution to housing supply. However, this and other benefits that may arise are not of a degree which indicate that the proposal should be determined otherwise than in accordance with the development plan and the Framework.
24. The Council's appeal statement refers to the issue of social sustainability and conflict with relevant policies of the EDLP, including the location of the site outside of specified development limits. Whilst I am mindful of the status of the EDLP, this issue was not referred to as a reason for refusal in the Council's decision. However, as I have dismissed the appeal for the reasons given above I have not considered the issue of social sustainability and this issue has had no bearing on my decision.
25. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR