



Appeal Decision

Site visit made on 7 January 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 February 2020

Appeal Ref: APP/G2713/W/19/3239103

land to the south of Carlton Road (A61), Carlton Miniott, Thirsk YO7 4NQ

Easting: 439940 Northing: 481366

- 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 Whitehead (NYC Estates Ltd) against the decision of Hambleton District Council.
 - The application Ref 19/01069/OUT, dated 8 May 2019, was refused by notice dated 23 August 2019.
 - The development proposed is outline application with all other matters reserved except for access for up to five residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for up to five residential dwellings at land to the south of Carlton Road (A61), Carlton Miniott, Thirsk YO7 4NQ (Easting: 439940 Northing: 481366) in accordance with the terms of the application, Ref 19/01069/OUT, dated 8 May 2019, subject to the conditions set out in the attached Schedule of Conditions.

Procedural Matters

2. Although the development description was initially set out in the terms described in the banner heading above, I have adopted a more concise description in my decision. I am satisfied that in doing so I have not prejudiced the interests of either main party whilst the conditions set out in the Schedule below satisfactorily address the nature of the application and the matters reserved for subsequent consideration.

Main Issue

3. The main issue is whether or not, having regard to the development plan and National Planning Policy, the appeal site is an appropriate location for residential development.

Reasons

4. The appeal site lies beyond the settlement boundary for Carlton Miniott as it is defined by the development plan. Carlton Miniott is defined in Core Strategy (CS) policy CP4 as a service village within the Hambleton settlement hierarchy where development of a scale and nature appropriate to each settlement will be supported within the Development Limits of those settlements. Development beyond development limits will only garner support from CS policy CP4 in exceptional circumstances and where the proposal satisfies one of the criteria (i) to (vi). Policy DP9 of the Council's Development Policies Development Plan Document (DPD) deals specifically with development outside

the development limits and reiterates elements of CS policy CP4 in respect of proposals beyond development limits.

5. The appellant makes no case in respect of the provisions of CS policies CP4(i) to (vi) or DPD policy DP9, and I concur with the Council's view that the proposal is in conflict with their provisions. However, although not adopted as part of the development plan, the Council have in place an Interim Policy Guidance note (IPGN), intended to reflect the provisions of the National Planning Policy Framework (the Framework) as the CS pre-dated the publication of the Framework. It is a matter of agreement between the parties that, regardless of the weight to be given to the IPGN, it represents a useful housing delivery tool and material consideration.
6. The main parties advance conflicting arguments regarding the weight to be given to the IPGN, however. Both parties submit appeal decisions¹² to support their respective cases. However, at the heart of the IPGN is an aim to support development where it contributes towards achieving sustainable development or enhancing the vitality of the local community. This is broadly consistent with the aims of the Framework.
7. Carlton Miniott is one settlement but with two distinct areas defined by separate development limit boundaries. Essentially a long linear settlement spread out along the A61, the separate limits reflect the two distinct western and eastern parts of the village, with a more open, rural feeling area between, within which lie a small number of sporadic buildings and dwellings.
8. The area between the two, whilst more rural in character than the built-up areas within the development limits, is not entirely devoid of the trappings of a settlement. A pavement with streetlighting runs between the two parts of Carlton Miniott, whilst the stretch of the A61 between the two parts of the settlement is interspersed with occasional dwellings. Those dwellings are clearly and visibly present when viewed from along the A61.
9. Thus, during my visit to the site I saw properties broadly opposite the appeal site, albeit set within generous landscaped grounds, and a small cluster of buildings around the junction with Sandhutton Lane. Beyond these, the playing field and further sporadic continued eastwards towards the other part of Carlton Miniott. When walking and travelling along the A61 between the two parts of Carlton Miniott I did not experience a sense of having left its environs. The appeal site and wider field in which it lies is open and has a rural character. However, it is bounded to the west by housing, and housing and built form is never far away or out of sight when travelling between the two.
10. There are, I accept, gaps in the built frontage along the A61 between the eastern and western parts of the settlement. However, the appeal proposal whilst introducing development into an open field fronting the southern side of the A61, would not entirely remove it. Indeed, the appellant has demonstrated that the extent of the proposal would be such that a significant proportion of the field, and the field's road frontage, that the site lies within would be retained. Furthermore, taking the stretch of road between the two parts of Carlton Miniott as a whole, the underlying character of the stretch of road between the two halves of Carlton Miniott would be retained.

¹ Appellant - G2713/W/18/3198941

² LPA - G273/W/19/3229120

11. With regard to the proposal's indication of how the quantum of development might be accommodated, it is clear that the site could accommodate a linear form of development very much in keeping with the prevailing form and character of the western part of the settlement. This would also be reflective of the built form immediately adjacent to the site.
12. Whilst a single point of access to serve the development would deviate slightly from the prevailing form of access and layout in the western part of the village, it would also enable the retention of the roadside hedge, hedgerow trees and verge would be retained. Thus, as well as further reinforcing the links and similarities with the prevailing character and appearance of this part of the settlement, the proposal would also ensure a continued contribution to the rural character of this stretch of the A61, the general sense of openness along which would be ensured by the remaining, and still extensive, field gaps between the two parts of Carlton Miniott. There would be some local impact on openness but, taking the appeal site in context with its surroundings, I am not persuaded that the limited loss of openness locally to the site would cause significant harm to the prevailing character of the appeal site or its surroundings.
13. The appeal site's position relative to existing housing on the southern side of the A61 would represent a natural extension to the built form of the western portion of Carlton Miniott. Moreover, the indicative site layout plan indicates how a proposal of up to 5 dwellings could maintain and reinforce the strongly linear form of the western part of the settlement whilst retaining the hedgerow and large hedgerow trees which play a significant contributory part in the character and appearance of this part of Carlton Miniott.
14. Although the IPGN states that small scale housing proposals will be supported 'in villages', this is clarified at section 3 where small-scale proposals which provide a natural extension to an existing settlement will be considered favourably. Although somewhat arbitrary, small scale is considered to be anything up to 5 dwellings. The proposal would therefore satisfy the IPGN's definition of small scale.
15. The IPGN also states that proposals must not have a detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements. For the reasons I have set out, I do not share the Council's view as to the extent to which openness would be harmed. Although Carlton Miniott is one village, albeit with two distinct development limit boundaries, I see no reason why the IPGN's aims of avoiding the coalescence of settlements should not apply to a settlement of Carlton Miniott's nature. However, for the reasons that I have set out, I am satisfied that the proposal would not result in the coalescence of settlements or, as in this case, coalescence of two distinct parts of the same settlement. There would not therefore, for the reasons set out, be conflict with DPD policy DP10 or the IPGN.

Planning balance

16. As a service village, Carlton Miniott has a range of services and facilities and as such is a location capable of accommodating further residential development. Additional housing will therefore contribute to maintaining or enhancing those local services and facilities. The proposal would be contrary to CS policy CP4 and DPD policy DP9 however. However, for the reasons I have set out above,

the proposal would not be in conflict with the IPGN in respect of points (2) or (4) set out therein. It also seems to me from the Council's single reason for refusal that it is not argued that the proposal would be contrary to points (1), (2) or (5) of the IPGN, and no other relevant policies have been cited in the reason for refusal that would lead me to conclude conflict with IPGN point (6).

17. Thus, although contrary to CS policy CP4 and DPD policy DP9, there would be no harm to the character or appearance of the surrounding area, the proposal would not cause material harm to the open character or appearance of the appeal site's surroundings and would not lead to the coalescence of the separate parts of Carlton Miniott. The indicative site layout shows how a proposal of up to 5 dwellings could be accommodated in a manner that would reflect the prevailing character and built form of the western part of the village whilst also retaining the roadside verge, hedge and hedgerow trees which contribute to the character and setting of the appeal site and this part of the village. There would be no conflict with DPD policy DP10 or the IPGN in this respect and these material considerations outweigh the conflict with CS policy CP4 and DP9 in this instance.

Other Matters

18. I have carefully considered the comments of the Parish Council in terms of their concerns regarding highway safety and the effect of vehicle movements arising from the proposed development. In considering this matter I have also had regard to the comments of the local highway authority and the Council's assessment of this matter. I saw that the position of the proposed point of access would be located at the eastern end of the site, furthest away from the slight bend in the road to the west and whilst I have also noted the location of the school I have not been presented with any compelling evidence to demonstrate that the proposal would prejudice highway safety or lead me to a conclusion contrary to the Council in this respect.
19. A nearby resident has advised that Carlton House and its Dovecote are listed buildings and that the proposal would have a negative impact on the heritage values of those heritage assets. The Planning (Listed Buildings and Conservation Areas) Act (1990) (as amended) places a statutory duty³ upon the decision taker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it may possess.
20. Although the Council have not exercised their duty in this respect I am bound to. For the reasons I have set out above, I am not persuaded that the proposal would harmfully alter the character or appearance of the appeal site or its setting. The extent of the appeal site along the A61 field frontage would be limited such that a large open field frontage would be retained to the east of the site and the prevailing character of the wider gap between the eastern and western portions of Carlton Miniott would be retained. Nor would the proposal erode the distinct character or appearance of either part of the settlement. In these respects, the proposal would have a neutral effect on the setting of these listed buildings and would thus preserve the setting of the listed buildings.

³ Section 66(1)

Conditions

21. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary and in the interests of precision or clarity I have made amendments to the wording of the conditions but in so doing I am satisfied that neither party's interests would be prejudiced. In the interests of clarity and certainty I have also removed references to 'unless otherwise agreed in writing by...' as there are more appropriate formal methods of dealing with variations to planning conditions.
22. I have attached the standard wording of conditions regarding the timing of the submission of reserved matters details and omitted the descriptive elements of those details. The intent of the conditions remains the same and I am satisfied that neither party would be prejudiced by my doing so.
23. I agree that conditions regarding foul and surface water drainage details, and details of parking are necessary in order to ensure the appropriate provision thereof. So too, construction management arrangements in the interests of highway and pedestrian safety and ground condition contingency provisions in the interests of living conditions of future occupiers of the approved dwellings.

Conclusion

24. For the reasons I have set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence other than initial site clearance and preparatory works, until a detailed scheme for the 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.
- 5) No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the local planning authority.
- 6) There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements;
 - a. The details of the access including the relocation of existing street furniture (where appropriate) shall have been submitted to and approved in writing by the local planning authority
 - b. The crossing of the highway footway shall be formed as a dropped kerb crossing in accordance with standard detail E6Var.
 - c. The final surfacing of any private access shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway. All works shall be carried out in accordance with the approved details.
- 7) There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the local planning authority in
 - a. vehicular and pedestrian accesses
 - b. vehicular parking
 - c. vehicular turning arrangements
 - d. manoeuvring arrangements

No part of the development shall be brought into use until the approved vehicle access, parking and turning areas have been constructed in accordance with the submitted details. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

- 8) There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the local planning authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the local planning authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the local planning authority agrees in writing to their withdrawal
- 9) There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the local planning authority for the provision of:
 - a. on-site parking capable of accommodating all staff and sub-contractor's vehicles clear of the public highway
 - b. on-site materials storage area capable of accommodating all materials required for the operation of the site.
 - c. The approved areas shall be kept available for their intended use at all times that construction works are in operation.
- 10) In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

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