



Appeal Decision

Site visit made on 3 February 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2020

Appeal Ref: APP/E2734/W/19/3241164

Land adjacent to Fairbanks, Deighton Bank, Kirk Deighton LS22 5HH

- 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 Mark Russell against the decision of Harrogate Borough Council.
 - The application Ref 19/03479/FULMAJ, dated 16 August 2019, was refused by notice dated 22 October 2019.
 - The development proposed is erection of a new 5 bedroom family home together with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Council has recently received the Inspector's Final Report on the Harrogate district Local Plan (ELP). The Inspector concludes that the plan is sound subject to main modifications. The Council anticipates that the final ELP will be adopted in early March. The appellant has had the opportunity to comment upon the latest position of the ELP but has not responded.

Main Issues

4. The main issues are 1) whether the site represents an appropriate location for housing, having regard to the relevant national and local planning policy for the delivery of housing; and 2) the effect of the proposal upon the character and appearance of the surrounding area.

Planning Policy

5. The Council state that they have a 6.89 year housing land supply and the appellant has not disputed this figure. However, the Council considers that Policies within the Harrogate District Local Development Framework Core Strategy (2009) (CS) are out of date, in so far as they relate to the supply of housing, and can be given no more than limited weight. In line with paragraph 213 of the National Planning Policy Framework (the Framework), I consider this to be reasonable in terms of Policies SG1, SG2 and SG3, given the age of the

CS and taking account of the altered context in relation to housing supply since those policies were adopted.

6. I find that there is no significant conflict between the objectives of the Framework and the aims of Policy SG4 of the CS and HD20 of the Harrogate District Local Plan Saved Policy Version (2007) (LP) and weight can be attached to those policies accordingly. However, I agree with the main parties that the most important policies, when taken as a whole, are out of date and the tilted balance at paragraph 11 of the Framework is engaged.
7. In relation to the emerging Policies, Paragraph 48 of the Framework advises that weight may be given to relevant policies in emerging plans according to the stage of preparation, the extent of unresolved objections and consistency with the Framework. The appellant has drawn my attention to an appeal decision¹ to support their stance that the emerging policies can only be given less than moderate weight. The ELP is now at a more advanced stage compared to when that appeal decision was determined. Given that the examining Inspector has found that the plan is sound, I give policies within the ELP significant weight in my consideration of this appeal.

Reasons for the Recommendation

Location

8. Within the CS Kirk Deighton is classed as a village settlement which would only accommodate very limited growth mainly in the form of suitable development within the existing built up area. Similarly, the ELP categorises Kirk Deighton as a smaller village.
9. The proposed dwelling would be located outside the development limits of Kirk Deighton. Similar to Policies SG1 and SG2 of the CS, Policies GS1 and GS2 of the ELP set out the growth strategy for the district over the plan period. The ELP focuses a significant proportion of new development in the main settlements and generally supports new development within the defined development limits, provided it accords with other policies in the Plan.
10. Policy SG3, of the CS, is relevant for development within the countryside. The proposal conflicts with this Policy as it does not form one of the development types encouraged by it. Similarly, Policy GS3, of the ELP, is applicable and sets out circumstances where proposals for new development outside the development limit of a settlement would be supported. Both the Council and appellant agree that the proposal would conflict with Policy GS3 of the ELP.
11. The amended version of Policy GS3 states that, outside development limits proposals for new development will only be supported where expressly permitted by other policies within the ELP or a neighbourhood plan or national planning policy. The Framework, at paragraph 78, seeks to promote sustainable development in rural areas and indicates housing should be located where it will enhance or maintain the vitality of rural communities. The dwelling may, to a degree, support local services and facilities but there is no evidence before me which clearly shows that the proposal would maintain or enhance community vitality. The construction period would be temporary and the economic contribution from one dwelling would be extremely limited.

¹ APP/E2734/W/19/3228519

12. Both main parties agree that the village of Kirk Deighton is approximately 600m to the east of the site and is a 5 minute walk via a footway which runs alongside the opposite side of Deighton Bank. Wetherby is the closest town to the appeal site and is situated approximately 1.5 miles from the site. It is recognised that, in accordance with paragraph 103 of the Framework, opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
13. On my site visit I walked from the site to Kirk Deighton and Wetherby. The segregated path which runs parallel with Deighton Bank is well maintained but there is no street lighting. There is also a lack of street lighting along Mark Lane. On the approach to Wetherby, along Deighton Bank, there is street lighting. It is likely that the lack of lighting would discourage pedestrians from walking to Kirk Deighton and Wetherby if there was a lack of daylight. Although there is a bus stop within approximately 740 metres of the site, I am not convinced that this would be a viable mode of transport given the infrequency of the services and walking route without lighting. As a result, it is likely that in order to access the local services, future occupiers would be dependent on the use of a private motor vehicle. Even in the context of the rural area in which the site is located, the availability of sustainable transport options is limited and unsuitable in comparison to more appropriate locations, as identified in the ELP.
14. Framework paragraph 79 seeks to avoid isolated homes in the countryside. The proposal would not comprise an isolated home under the terms of the Framework due to its physical proximity to the neighbouring properties. However, it does not follow that the site represents a suitable location for new housing development simply because it is not 'isolated' in the limited meaning of paragraph 79 of the Framework. For the reasons given above, I find that the site would not represent an appropriate location for housing on account of its proximity to local shops and services and the lack of available alternatives to the private car. The scheme would conflict with relevant national and local planning policy for the delivery of housing which seeks to encourage a sustainable pattern of growth.

Character and Appearance

15. It is understood that the site has most recently been used for the grazing of horses and this was evident on my site visit. The appeal site is largely enclosed by hedgerows and mature trees and sits slightly lower than the adjacent highway. North of the site is a residential dwelling and to the south are three residential properties. On the opposite side of Deighton Bank is also a residential dwelling. The site is considerably larger than the surrounding domestic plots. The neighbouring properties are modest, traditional properties which reflect the character of the countryside location.
16. The Harrogate District: Landscape Character Assessment (2004) (LCA) provides detailed assessments of 106 character areas across the district. The site is located towards the western edge of Area 100 of the LCA and adjacent to Area 56. The characteristics of the local area is more aligned with the main characteristics of Area 100. As highlighted by the LCA, this area is characterised by large, flat arable fields which are predominantly open with hedges. It recognises that the A1 upgrade has altered the character of the area. The LCA states that any proposed development must conform with the

landscape pattern and include an appropriate degree of woodland planting. It asserts that new development should be appropriately located and designed to sit harmoniously in the landscape in order to conserve the strong landscape pattern.

17. In order to attempt to blend the dwelling into the landscape, it has been designed so the lower ground floor is sunken into the ground with sloped green roofs. The dwelling would be set back from the highway and a new access would be created along the southern boundary of the site. A landscape and visual impact assessment (LVIA) was submitted with the planning application to identify and assess the anticipated landscape and visual effects resulting from the development. The LVIA includes a landscape proposals plan which shows proposed tree planting, hedgerow and wildflower meadows.
18. The LVIA concludes that there would be some localised harm to the site itself as a result of developing a greenfield site, however the harm is restricted to the site only and reduces within the immediate landscape setting and furthermore in the wider setting. It goes on to state that the proposed tree and hedgerow planting along the site's boundaries would assist in integrating the development into the landscape setting.
19. There is no doubt that the proposed landscaping and design would help reduce the scheme's impact upon the area. Nonetheless, the development would be seen in the context of the neighbouring properties. It is clear that the appellant is not attempting to replicate a traditional dwelling similar to its surroundings but instead a contemporary development. The appellant describes the dwelling as innovative but I do not consider that the proposal incorporates any novel features. The proposal would not relate to the existing, adjoining dwellings in terms of its sitting, massing or external appearance.
20. The proposed development would introduce vertical elements into a currently flat landscape. Although the sloped green roofs would help to soften this, due to the height and mass of the building, the elevations are harsh and defined which would not appear natural. The development would also result in the introduction of domestic paraphernalia. The plot is substantially larger than the adjacent domestic plots. The proposed, considerable garden would also alter the character of the site and area.
21. The scheme would be heavily dependent on conditions to minimise its visual impact upon the area. I acknowledge that the proposal would have limited impact upon longer distance views and the wider area. However, I am not convinced by the submitted evidence that the proposal would be adequately screened from Deighton Bank to not cause harm. There is a lack of detail in terms of the height and density of the proposed landscaping and I am not satisfied that the screening would be effective, especially during autumn and winter.
22. On my site visit, the existing hedge, adjacent to Deighton Bank, was not in leaf. Although the current hedge does to an extent obscure views of the site it demonstrates that a comprehensive landscaping scheme would be required to effectively screen the dwelling. The LVIA acknowledges that the finished building height would be approximately 5.275m and the roof line would be visible above the existing boundary hedge adjacent to Deighton Bank. The LVIA assessment appears to heavily rely on the landscaping to minimise the harm,

without providing any thorough details, and recognises that any future occupier would need to be proactive in maintaining the new landscaping.

23. The LVIA assesses the proposals impact after 10 years and considers there is 'potential for a moderate beneficial effect in the long-term'. In my view, this is not convincing and in practice new planting will not fully mature until sometime after 10 years. Ultimately, I am not persuaded by the evidence submitted that landscaping would adequately screen the development and thus I am not satisfied that a condition could mitigate the adverse effects.
24. Whilst there are residential properties within the area, the pattern of development is sporadic, which reflects the rural character of the location. The gaps between existing buildings, including the paddock in this instance, are important in retaining that rural character. Despite the attempts to minimise the impact of the development, the introduction of a dwelling, with associated paraphernalia would result in a pattern of ribbon development that would have an urbanising effect and would be harmful to the rural character of the area.
25. For these reasons, I find that the proposed development would have a significant adverse visual effect upon the character and appearance of the surrounding area. In addition to the above Policy conflict, the proposal would also not comply with CS Policies SG3 and SG4, LP Policy HD20, ELP Policy HP3 and the Framework. These Policies collectively seek, amongst other matters, to ensure that development proposals respect the local characteristics of an area.

Other considerations

26. I have had regards to the benefits of the development. The proposal would contribute to the local housing supply. However, I consider, in this case, that this carries very limited weight given the small scale of the development and the Council's housing land supply position. I acknowledge that the new planting and green roof would provide energy efficiency and biodiversity benefits, however such benefits could be achieved by siting a dwelling in a more sensitive location. Thus, I give this no more than limited weight in favour of the proposal.

Planning Balance, Conclusion and Recommendation

27. For the reasons given above, the development conflicts with the development plan, having regard to the location of the proposal and the effect on the character and appearance of the area. However, the policies that are most important for determining the proposal, taken as a whole, are out of date. Paragraph 11(d)(ii) of the Framework identifies that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, having regard to the policies of the Framework taken as a whole.
28. The dwelling would be situated within an unsustainable location with regards to access to services and available transport options, contrary to the aims of paragraph 78 of the Framework. The LVIA by its own admission finds that the development would cause harm and thus, for the above reasons, it would fail to respect the character and appearance of the area. The scheme would conflict with emerging planning Policies which have been found sound by the examining Inspector and can therefore be given significant weight, having regard to paragraph 48 of the Framework. For the reasons given, and in

accordance with the Framework, I attach significant weight to the harm in respect of those matters.

29. The benefits arising from the construction of a single dwelling would be limited, for the reasons set out above. The adverse impacts arising from the development would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
30. Consequently, having regard to the aims of the development plan and all relevant material considerations, I recommend that planning permission should not be granted and that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

31. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR