



Appeal Decision

Site visit made on 12 December 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2020

Appeal Ref: APP/E2734/W/19/3229790

Crimple House Farm, Hornbeam Park Avenue, Harrogate HG2 8QL

- 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 outline planning permission.
 - The appeal is made by Mrs S Hullah against Harrogate Borough Council.
 - The application Ref 18/04765/OUTMAJ, is dated 12 November 2018.
 - The development proposed is residential development of up to 10 dwellings, with consideration of access limited to access into the site.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for outline planning permission with all matters reserved except for access. As originally submitted layout was also to be considered at outline stage and the proposal was for 10 dwellings. However, the proposal was subsequently amended prior to the appeal being submitted meaning that layout is now a reserved matter and the proposal is for up to 10 dwellings. Consequently, any proposed site plans are indicative as far as they relate to the layout of the proposal. I have determined the appeal accordingly.
3. Both of the main parties have made reference to the emerging Harrogate District Local Plan (ELP) and I have been informed by the Council that the Inspector's report on the ELP examination has recently been published and concludes that the ELP is sound subject to the main modifications outlined. Both parties have had the opportunity to comment on the publication of the Inspector's report and the implications of it for the determination of the appeal. Having regard to paragraph 48 of the National Planning Policy Framework (the Framework) and to the advanced stage of preparation of the ELP, I attach significant weight to relevant policies with the ELP subject to the other listed criteria in paragraph 48. I am not aware that any modifications are recommended by the examining Inspector to ELP Policy GS3 or to the proposed development limits that would affect the determination of the proposal.

Background and Main Issues

4. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.

5. Although the Council has not submitted a statement of case, I have been provided with a copy of an Officer Report to the Planning Committee seeking the committee's view on the proposal. This states that permission would have been refused for the proposal for various reasons and these form the main issues which are:
- whether the site is a suitable location for residential development having regard to local and national policy;
 - the effect of the proposal on the character and appearance of the area having particular regard to the adjacent bridleway and the Special Landscape Area (SLA);
 - whether future occupiers of the proposed dwellings would have satisfactory living conditions.

Reasons

Suitable location for residential development

6. The appeal site comprises land and buildings located to the north-east of Hornbeam Park Avenue. Prior approval was permitted in April 2019 for the conversion of one of the buildings to 3 dwellings (Ref 19/00998/PBR).
7. The Council states that the site is located beyond the development limit for Harrogate as identified in both the adopted development plan and in the ELP, a fact not disputed by the appellant. Policy SG3 of the Harrogate District Local Development Framework Core Strategy adopted February 2009 (CS) and Policy GS3 of the ELP seek to control development beyond development limits. The proposal is contrary to these policies as it does not fall within any of the exceptions listed in Policy SG3 and the evidence does not show that it meets all of the criteria listed in emerging Policy GS3.
8. Although I note the Council's view that its adopted policies for the supply of housing and associated development limits are out of date and can be given no more than limited weight, the policies nevertheless comprise part of the development plan. I will consider the weight to be attached to the conflict with the adopted policies elsewhere in my decision and in any event, as previously stated, I attach significant weight to the relevant policies in the ELP, including Policy GS3.
9. Similarly, I note the appellant's reference to the position of the site relative to surrounding development and to services and facilities; its existing use and to the extant permission for residential development on the site. However, these factors do not alter the fact that the proposal is contrary to the Council's adopted and emerging policies which seek to direct development to within identified settlements. Approval of the proposal would result in significant harm to the Council's adopted and emerging settlement strategy.
10. Taking the above matters into consideration, I conclude that the site is not a suitable location for residential development having regard to local and national policy. It is therefore contrary to CS Policy SG3 and to ELP Policy GS3. These policies seek to direct development to within development limits and to control development beyond them.

Character and appearance and effect on bridleway

11. As stated, the site contains a number of existing buildings, one of which has permission to be converted to 3 dwellings. There is vehicular access to the site off Hornbeam Park Avenue, the first part of which also forms part of the bridleway which runs to the north west of the site and connects to the showground. At the time of my visit the bridleway was being well used by pedestrians. The access is surfaced and is also shared with one of two dwellings located nearer to the road to the front of the site and with the farmhouse at the rear.
12. The site is positioned at the southern end of Hornbeam Park Avenue, which mainly comprises large, commercial buildings, and is positioned near to other development including St Michaels Hospice; a number of commercial buildings and dwellings. The majority of the site is in an elevated position relative to the bridleway to the north west meaning that part of the site is clearly visible and prominent when viewed from it. The site is located within the Crimple Valley Special Landscape Area (SLA).
13. The proposal includes amendments to the existing access and to the bridleway to provide a wider entrance and access road to the site. Though the proposal would result in a more formalised access and access road and a more urbanised feel to this particular section of the bridleway, given the relatively short section of bridleway affected and the surfaced nature of the existing access road together with the presence of existing development near to it, I do not consider that the proposed changes would be unduly harmful to the character and appearance of the bridleway. The position and width of the revised access means that there should be scope to provide some landscaping along the north western side of it so as to provide a buffer between the bridleway and existing commercial development.
14. As previously stated, parts of the site are elevated relative to the bridleway and can be seen from it. Although the submitted layout shows dwellings positioned very close to the bridleway, layout is a reserved matter and the number of proposed dwellings is not fixed. Consequently, I am satisfied that residential development of an appropriate layout, scale and appearance could take place on the site without detriment to the character and appearance of the area, including the bridleway and the SLA. I note that the Council raised no concerns in relation to the effect of the proposal on the SLA per se due to the position of the site relative to the wider SLA.
15. Taking the above matters into consideration, I conclude that the proposal would not have a significant adverse effect on the character and appearance of the area having particular regard to the adjacent bridleway and the SLA. Similarly, though I note that numerous concerns have been raised in relation to the effect on the bridleway, I am satisfied that its character and recreational and amenity value would not be harmed by the proposal. It therefore accords with CS policies EQ2 and SG4 and policies C9, HD29 and R11 of the Harrogate District Local Plan February 2001 including selective alterations to it May 2004 (LP) insofar as they relate to character and appearance and effect on public rights of way. These policies seek, amongst other things, to protect landscape character; to ensure that development is well-designed and that it is not harmful to public rights of way.

Living conditions

16. The Council has expressed concerns about how 10 dwellings could be accommodated on the site whilst providing satisfactory living conditions for future occupiers of the proposal and the permitted barn conversion. However, whilst these concerns are noted, as stated, layout, scale and appearance are all reserved matters and the proposal is for up to 10 dwellings. Consequently, fewer dwellings may be proposed at reserved matters stage, particularly if a suitable layout for 10 dwellings cannot be achieved which also provides satisfactory living conditions including adequate outlook and privacy distances. The submitted layout is indicative and is not therefore determinative.
17. Taking the above matters into consideration, I conclude that the terms of the application are such that there is no substantive evidence at this stage to suggest that future occupiers of the proposed dwellings would not have satisfactory living conditions. The proposal therefore accords with Policy SG4 of the CS and Policy HD20 of the LP insofar as they relate to living conditions. These policies seek, amongst other things, to respect the privacy and amenity of nearby residents to protect and where possible enhance residential amenity.

Other Matters

18. The Officer Report to the Planning Committee set out the Council's position in relation to housing land supply and its adopted housing supply policies. Although the Council states that as of April 2019 it had a 6.89 years housing land supply, it nevertheless considered that the presumption in favour of sustainable development set out in paragraph 11 of the Framework applied due to the out-datedness of its adopted housing supply policies and development limits. Consequently, when determining whether the application would have been approved, the Council applied the tilted balance of paragraph 11.
19. During the course of the appeal, the Council has stated that it currently has a housing land supply of 6.81 years and that more weight should now be given to policies in the ELP and to the fact that the site is not allocated for development in the ELP. However, neither the Council nor the appellant comments on whether or not the tilted balance still applies to the proposal and the appellant does not appear to question the Council's latest housing land supply position, other than to refer to the fact that it heavily relies on windfall sites.
20. The proposal would provide up to 10 additional dwellings in an accessible location and, depending on the final numbers of dwellings proposed, would make a modest contribution to housing supply in the area. It would also provide economic benefits in the short term through the provision of employment opportunities during construction and in the short to long term through spending in the local economy both during construction and afterwards. The proposal would also appear to result in the reuse and redevelopment of some brownfield land. I attach moderate weight to the social and economic benefits associated with the proposal.

21. Weighed against this is the fact that the proposal is for development beyond the development boundary for the area, as set out in both the adopted and emerging development plans. Approval of the proposal would therefore result in significant harm to the Council's adopted and emerging settlement strategy, notwithstanding the appellant's arguments that it comprises a "textbook" windfall site and the alleged reliance on such sites to contribute to the Council's housing land supply figure. Whilst the Council's supply may indeed rely on windfall sites, there is no evidence to suggest that such sites would not comprise unallocated sites within development limits rather than outside of them as is proposed.
22. Taking the above matters into consideration, even if I were to apply the tilted balance as set out in paragraph 11 of the Framework, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. My attention has been drawn to the fact that when offering pre-application advice in 2018 (Ref 18/00896/PREM), the Council raised no objection to the principle of residential development on the site. However, whilst this is noted, I am not aware of the full details of the pre-application submission and in any event, such advice is not binding on the Council.

Planning Balance and Conclusion

24. As stated, the proposal is for development beyond the adopted and emerging development limit for the area and its approval would cause significant harm to the Council's settlement strategy. Although the Council appears to consider that the conflict with its adopted housing supply policies should be given limited weight, as stated, I attach significant weight to relevant policies in the ELP and to the conflict with them. There are no material considerations that indicate that the proposal should be determined otherwise in accordance with the development plan.
25. Therefore, for the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR