



Appeal Decision

Site visit made on 24 February 2020

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/G2713/W/19/3242194

Mill Riggs Farm, Mill Riggs, Stokesley TS9 5HQ

- 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 Stokesley Care Limited against the decision of Hambleton District Council.
 - The application Ref 18/02019/FUL, dated 18 September 2018, was refused by notice dated 20 November 2019.
 - The development proposed is Demolition of house and associated buildings; change of use of land and the construction of a Care Home (Use Class C2), together with change of use of land to include a service yard and refuse area, associated landscaping and car parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's description of the proposals on the application form differs slightly from that set out above, which includes minor alterations made by the Council. The Council's description more accurately represents the proposals and is as specified on the appeal form by the appellant, therefore I have determined the appeal on this basis.
3. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 has been submitted with the appeal, relating to the provision of a shuttle bus service and contributions towards the provision of a road crossing facility and travel plan monitoring. I have taken this document into account in the determination of this appeal and I discuss this further in the section on location and access below.

Main Issues

4. The main issues are:
 - The need for a care home facility in the locality;
 - Whether the location of the proposed development is acceptable in terms of its accessibility to local services by non car users; and
 - The effects of the proposed development on the character and appearance of the surrounding countryside.

Reasons

Planning Policy Background: Development in the countryside

5. The development plan for this area comprises the Hambleton Local Development Framework Core Strategy 2007 (CS) and the Hambleton Local Development Framework Development Policies Document 2008 (DPD). The appeal site lies outside of the development limits of Stokesley as defined by Policy DP8 of the DPD, and is therefore within the countryside for the purposes of planning policy. Policy DP9 of the DPD allows for development in exceptional circumstances as set out in Policy CP4 of the CS.
6. Policy CP1 of the CS and Policy DP9 of the DPD indicate a preference to re-use of brownfield over greenfield locations. It is the case here that the site is in part previously developed land. It comprises an existing dwelling and a former farm shop, together with a number of outbuildings previously in commercial use. Approximately 0.23 hectares (ha) of the 0.78ha site currently contains buildings and hardstandings¹. The remainder is greenfield, including an area of grassland which is open to the fields beyond.
7. The proposals are contrary to the aforementioned overarching locational development plan Policies. It has been put to me that such Policies are out-of-date, and I am directed to a number of appeal decisions in the Borough. I note that these date from 2015-2016 and I do not have the full details before me. Nonetheless it appears that those proposals related to housing development, and at that time the Council could not demonstrate a five year supply of deliverable housing sites.
8. No evidence has been put to me in relation to a current shortfall of market housing, only care accommodation. They are therefore not directly comparable. The Policies allow for some development in the countryside where it meets certain criteria; there is no blanket restriction as such. Consequently they are in broad compliance the National Planning Policy Framework (the Framework) and I give them significant weight.

Need for Care Facility

9. There is conflicting evidence between the parties relating to the need for the care home facility. I have included this as a main issue as it is necessary to consider whether the proposed development can be supported under Policy CP4 of the CS as an 'exceptional case'. The Policy supports development in the countryside where, amongst other matters, iii) it provides community facilities meeting a local need where that need cannot be met in a settlement within the hierarchy. A care home could be loosely defined as a 'community facility', and both parties consider the Policy relevant to their case.
10. The range of evidence before me in relation to local need demonstrates that the age profile of the area is skewed towards older people (and this is increasing), and that there are no existing care homes within or in close proximity to Stokesley. I have also had regard to the numerous letters of support which highlight issues relating to care provision in the local area. The need is not fully quantified, however the evidence is clear that current provision

¹ Page 14, Landscape Visual Appraisal (Topia Landscape Architects, August 2018)

is lacking and that there is an overall need and demand for such a facility which is likely to increase in the future.

11. In terms of the second 'limb' of part iii) of Policy CP4, a number of alternative sites have been assessed which the appellant considers to be unsuitable or not available for various reasons. I do not have any reason to disagree with these findings as the Council have not given any substantive evidence to dispute this. Moreover, the full details of these sites are not before me. I am mindful that Stokesley is a designated a 'service centre' in the settlement hierarchy of the CS and has a range of services and facilities commensurate with its designation. The proposal would constitute an appropriate use in terms of the scale and status of the settlement.
12. Consequently, the location of the site outside of the development limits is not determinative in this case. The proposed use would go some way to meeting a local need, in compliance with part iii) of Policy CP4 of the CS. In addition, it would support the social and economic regeneration of the rural area thereby complying with part vi) of Policy CP4. This is because the development could enable existing residents with care needs to stay in the local area and reduce the need for them, and their families, to travel elsewhere. In turn this type of development could constitute an 'exceptional circumstance' as set out in Policy DP9 of the DPD.

Location and Accessibility

13. The site is within a reasonable distance from the centre of Stokesley which has a range of local shops and services. It is walkable for the able bodied, however given its separation from the town by a busy main road it is not necessarily an appealing or safe location to walk to. This stretch of the A172 forms a bypass serving fast moving vehicles and is subject to the national speed limit. There is no crossing facility, the road is unlit, and there is no footway to the eastern side. I have had regard to the range of responses from North Yorkshire County Council as the Local Highway Authority (LHA) in respect of access and highway safety.
14. I accept that whilst future residents are likely to have very different ranges of mobility and individual care needs, they are unlikely to drive a car or leave the site unaccompanied, and I agree with the LHA that it is accessibility of the site for staff and visitors that is most pertinent. I do not have any reason to dispute the research on potential visitors including that from Age UK. Nonetheless I give this little weight in the decision making process as the number and frequency of visitors will inevitably vary. There is more certainty around levels of staff; the use requires a high staff ratio who will be on various shift patterns and travelling from different locations, with potential for high traffic movements at peak times.
15. I note there is some dispute between the parties regarding the location and frequency of bus services. Nevertheless, the evidence suggests that the nearest stops are in excess of the 400 metre acceptable walking distance set out in the IHT Guidelines² as referred to by both parties, and all would involve users needing to negotiate fast moving vehicles across the A172. The nearby garden centre may be an attractive destination for both residents, staff and

² Guidelines for Providing for Journeys on Foot (Institute of Highways and Transportation, 2000)

- visitors. However walking there may not be a viable option for the less mobile, and there is a lack of footway on this side of the road.
16. A number of different mitigation measures have been put to the Council by the appellant in an attempt to overcome concerns regarding the connectivity to the town and safety of pedestrians crossing the A172. I acknowledge that the LHA ultimately withdrew their objection to the proposals when presented with mitigation measures including a shuttle bus service together with a sum for travel plan monitoring, and a contribution to a potential future road crossing point. Such mitigation measures form obligations within the submitted UU.
 17. Overall, I am satisfied that the provision of a shuttle bus would provide a sufficient alternative to the use of the private car for staff and visitors to get to and from the site and the centre of Stokesley. Additionally, contributions to travel plan monitoring and to a formal road crossing would assist in meeting aims to reduce journeys by private car and improving pedestrian safety. Consequently the accessibility of the site would not be a reason for permission to be denied. This is subject to the identified mitigation measures being properly secured by a planning obligation and operated effectively.
 18. They meet the first test of paragraph 56 of the Framework and part 122 of the Community Infrastructure Levy Regulations 2010 in being necessary to make the development acceptable. However, I find that the obligations do not adequately meet all of the tests. There are a number of uncertainties and deficiencies in the UU. These include:
 19. *Site Location Plan*: A site plan is included within the UU which is identical to that submitted with the appeal documentation, however the plan is not referred to within the text nor is it signed and dated by the parties. Furthermore, evidence of title has not been provided.
 20. *Definitions*: Some definitions are too vague, including 'Highway Contribution' and 'Monitoring Fee', which do not specify who the payments are payable to, nor what they are in accordance with. 'Travel Plan' is ambiguous as one has already been submitted with the appeal documentation. The 2018 document before me is outdated as it does not reference the shuttle bus and includes mitigation measures which have since been rejected by the LHA. The definition in the UU relates to the shuttle bus only and not a range of other measures that may assist in reducing reliance on the motor car.
 21. *Contributions*: There is no evidence before me relating to how the contributions to the crossing or travel plan monitoring have been calculated nor whether they would be fairly and reasonably related in scale and kind to the development.
 22. *Schedule 1 (2)*: There are too many uncertainties relating to this obligation. There is insufficient evidence before me in relation to the potential crossing and the associated Endeavour Way project, including whether a 10 year period would be sufficient. Together with the comments from the LHA³, this raises doubts about its future delivery. The payment of the sum towards a project which is uncertain would not adequately meet the tests. Furthermore, I cannot find any clause requiring monies to be returned in the event that the project does not come to fruition and/or the contribution is not fully spent.

³ North Yorkshire County Council Highways, 1 February 2019 and 18 September 2019

23. *Schedule 1 (4)*: This covenant triggers the approved travel plan to be implemented and maintained unless and until the highway contribution is paid pursuant to (2). However (2) only requires payment on the trigger of the County Council's intention to introduce a crossing. There could be significant time lag in between this notice of intention and the actual provision and completion of the crossing where there is no shuttle bus or crossing. Additionally, if the contribution is ultimately unspent and/or the crossing is not provided, the effect of this clause is that the travel plan would cease.
24. Additionally, I cannot find a clause to specify a minimum time period for operation of the travel plan/shuttle bus (nor a clause for agreeing any alternatives with the Council) in the event the crossing payment is not made. Finally, the Council have informed me that they have reservations about the UU so have not approved its content, nor is there any indication that the County Council as LHA have been fully consulted. This raises further doubt about the validity of the UU.
25. A fallback position exists where previous commercial uses on the site could resume, with associated traffic and pedestrian movements, without mitigation. However little information had been put to me regarding the intensity of the previous uses to enable me to make such a comparison, nor does any evidence suggest a likelihood of any of the uses being resumed. Therefore the weight I give to the fallback position is limited. It has also been put to me that the traffic associated with the development should be balanced with fewer movements associated with people travelling elsewhere for care needs and visits. Be that as it may, this has not been demonstrated nor quantified so I cannot give it any significant weight.
26. To conclude on this main issue, the site is located in reasonable proximity to Stokesley however its' separation from the town by the busy A172 raises concerns in terms of pedestrian safety and connectivity. The mitigation measures put forward are necessary to mitigate such concerns, but only if they are properly operated and secured. However I have found the UU to be deficient, and it is not capable of taking effect. As such it cannot carry any weight in my decision. Without the mitigation being secured, the appeal fails in respect of its lack of accessibility to non car users.
27. The proposed development would thereby result in conflict with Policy DP3 of the DPD and Policy CP2 of the CS which seek for new development to include provision for sustainable forms of transport and reduce the need to travel by private car, and Policy DP4 of the DPD which seeks to ensure safe and easy access is available to all potential users. In turn the proposals would also be contrary to the provisions of paragraph 108 of the Framework.

Character and Appearance

28. The site has a distinctly rural character, reflecting its past use as a farmstead. Despite the more recent commercial uses the site retains its rustic appearance with a two storey farmhouse and single storey barns and sheds arranged compactly the site's entrance. The A172 Stokesley bypass forms a visual and physical barrier to the town. The site has a perceptibly different character to the modern housing opposite. The opposite side of the road has a clearly urban character commensurate with its location on the edge of the development limits of the town formed by the bypass.

29. The east side of the A172 does contain a number of buildings, including the appeal site, but they are sporadically located, with open fields between them. There is a large new structure associated with the nearby garden centre, however the evidence suggests it is a replacement for buildings previously destroyed by a fire. The site is not 'isolated' in the sense of paragraph 79 of the Framework given its proximity to the town and other development. Notwithstanding this it does not visually or physically connect to the town nor the nearby garden centre or other buildings, and their presence does not justify further development to this side of the A172.
30. It has been put to me that the site is not located in open countryside, and that it comprises an enclosed parcel of previously developed land. I do not agree. I have already established that the site is in the countryside for the purposes of planning policy, and construction of a large new building on this site would conflict with Policies that seek to manage rural development. Whilst a proportion of the site is previously developed, the proposals would also represent a significant encroachment onto undeveloped open fields to the side and rear of the existing buildings, and there is a discernibly open appearance to the site here.
31. The proposed building would be larger in height, scale and massing than the range of existing relatively low rise structures on the site, which are the type of buildings one would expect to find in a rural location. Views from the urban edge of Stokesley would not be significantly affected, as the site benefits from a good level of existing hedgerow screening alongside the A172. The Appellants' Landscape Visual Appraisal (LVA) shows that the 'zone of visual influence' would be on the surrounding countryside rather than upon the settlement of Stokesley⁴. I would agree with this having viewed the site from various viewpoints around the town and from the surrounding fields via the nearby roads and public right of way bridleway (PROW). The PROW appears to be well used, enabling sensitive receptors to gain extensive views of the site. I note its' use is likely to intensify in the future with upgrades associated with the Endeavour Way project.
32. The building would be seen against the backdrop of the urban edge of the town when viewed from here, and existing and additional planting will assist in screening the development. Notwithstanding this, it is the scale, bulk and siting of the building which encroaches further into open greenfield land which gives me cause for concern. The total area of proposed built form (0.17ha) over and above the existing built form (0.06ha)⁵ would be significant. I accept that there is currently a large area of car park and hardstanding, however this has little visual effect on the surrounding countryside.
33. I acknowledge that the use of the building in meeting the needs of occupants with complex care needs including dementia has influenced the design and layout of the building. Additionally, I have no doubt that the views from the building of the countryside and hills beyond will have some beneficial effect on the wellbeing of future occupants. Nonetheless, this should not be at the expense of the irreversible impact on the intrinsic character of the countryside.
34. The staggered shape of the building and the hipped roof assists in reducing its impact, however there would still be a moderate degree of harm overall to the

⁴ Figure 3, Landscape Visual Appraisal (Topia Landscape Architects, August 2018)

⁵ Page 14, Landscape Visual Appraisal (Topia Landscape Architects, August 2018)

character and appearance of the countryside resulting from its excessive scale, bulk and massing. This is amplified by its suburban design which inadequately reflects its rural location. Conditions requiring the use of traditional materials and implementation of a landscaping scheme may go some way to reducing its effects, however I am not satisfied that this would be sufficient mitigation in making the development before me acceptable.

35. Overall the proposed development would result in unacceptable harm to the character and appearance of the surrounding countryside. Consequently it is in conflict with Policy CP16 of the CS in seeking to preserve and enhance the District's natural assets, and Policy DP30 of the DPD in seeking to respect the openness, intrinsic character and quality of the landscape and its requirement for the design and location of new development to take into account landscape character and its surroundings.
36. In terms of design the development fails to accord with Policy CP17 of the CS and Policies DP30 and DP32 of the HLDFDP which seek a high quality of design taking account of the qualities of the local landscape. In turn the proposals would conflict with Section 12 and paragraph 170 of the Framework.

Other Matters

37. I note the social and economic benefits of providing a care facility in an area of undisputed need, including the provision of employment both during construction and once the care home is operational. However, these matters would not outweigh the harm that I have identified with regards to the main issues.
38. It has been put to me that the development could assist in increasing housing supply as it could free up existing family dwellings in the locality currently occupied by the elderly. I give this limited weight as there is no evidence before me in relation to the current housing land supply position in the Borough.
39. A number of other nearby planning applications are quoted but it seems to me that there are few comparisons to be made with the appeal scheme, and in any event I do not have the full details before me therefore I have not given them any weight in my decision. Comments regarding the manner in which the Council dealt with the planning application are not matters which have any bearing on my decision.
40. The new Hambleton Local Plan is cited by the Appellant however as it has not been submitted for examination I give it limited weight. In any event Policy HG5 of the emerging plan relates to windfall housing, and bears little relevance to the appeal proposals which are not 'a minor scale housing development' which would be supported by this emerging policy.

Conclusion

41. For the reasons given above I conclude that the appeal should be dismissed.

S Hunt

Inspector