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## Appeal Decision

Site visit made on 8 July 2020

**by M Seaton DipTP MRTPI**

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

**Decision date: 24 August 2020**

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**Appeal Ref: APP/G2713/W/20/3250736**

**Larks Edge, Dalton, Thirsk, YO7 3HS**

- 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 & Mrs Colin and Audrey Grimston against the decision of Hambleton District Council.
  - The application Ref 19/01444/OUT, dated 2 July 2019, was refused by notice dated 15 October 2019.
  - The development is for a residential development comprising four dwellings.
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**This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 4 August 2020.**

### Procedural Matter

1. The application has been submitted in outline with all matters related to appearance, landscaping, layout, access and scale reserved for later consideration. Whilst I have noted the appellant's reference to the proposed dwellings as being bungalows within the description of development included in the Grounds of Appeal, I have dealt with this reference and the submitted plans as an indication only of how the appeal site might potentially be developed.

### Decision

2. The appeal is dismissed.

### Main Issues

3. The main issues are;
  - whether the proposed development would be in an appropriate location for new housing and would accord with the spatial policies of the development plan, and the effect on the character and appearance of the area;
  - whether the access arrangements for pedestrians for the proposed development would be acceptable, having regard to highway safety; and,
  - whether the living conditions of future occupiers would be safeguarded with the proximity to existing commercial activities, having regard to noise and odours.

## Reasons

### *Spatial policy considerations*

4. The appeal site is a 0.205 hectares largely flat parcel of land set to the south-west of Larks Edge, which is a detached dwelling also set itself to the south-west of the village of Dalton. The land is laid out as a grassed paddock with mature tree and hedgerow planting on the boundaries, with evidence of a modest pond set within the wooded part of the site.
5. The land surrounding the appeal site is comprised of a mix of uses including commercial activities and uses at Southland Farm to the south of the appeal site, and a dwelling and residential curtilage further to the west beyond the existing access lane. An open area of paddock land is set further to the north, whilst the established residential areas of Dalton are located further to the north-east and east.
6. There is no dispute between the parties that the appeal site is located beyond the development limits of the existing village, and I note that Dalton is identified as a *Secondary Village* within the settlement hierarchy, where only small scale limited infill, redevelopment and conversions would be regarded as appropriate.
7. The Council has referred me to Policy CP4 of the Hambleton Core Strategy 2007 (the Core Strategy), and Policy DP9 of the Hambleton Development Policies 2008 (the Development Policies) which adopt a more permissive outlook to development. These policies set out certain circumstances where development would be allowed beyond development limits, with Policy DP9 cross-referencing the exceptional circumstances set out in Policy CP4.
8. Having regard to the exceptional circumstances, I note from the appellant's submissions that there is no explicit claim that the appeal proposals would specifically meet any of these criteria. On the face of the submitted evidence, the proposals must be seen to conflict with Policies CP4 of the Core Strategy and DP9 of the Development Policies.
9. Nevertheless, I note that in their decision-making, the Council has referred at length to Interim Policy Guidance (IPG) adopted in April 2015 relating to the Settlement Hierarchy and Housing Development in rural areas, which is described as acting as a bridge between the above development plan policies and the updated policy position presented by the National Planning Policy Framework (the Framework). Despite the IPG's adoption, it does not form part of the development plan, but I would agree that it is an important material consideration which for its consistency with the Framework must attract substantial weight.
10. I have carefully considered the proposed development against the IPG, which states that small scale housing development will be supported in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community, and through meeting ALL of the listed criteria.
11. In addressing the criteria, the proposed development would quite clearly meet the requirement to be small in scale, comprising as it would less than five dwellings, and it would not be isolated in the context of the proximity to the existing settlement and surrounding development. However, the expectation is

that small scale development should be incorporated as incremental or organic additions to the settlement, which reflect the existing built form and character of the village.

12. In this respect, the proposed development would not reflect the existing built form and character of the village, which I observed to follow a largely nucleated pattern of development. Whilst I recognise that the appeal site is surrounded on three sides by existing development, the nature and form of this development is in itself not reflective of the existing character and form of the village, extending as it does in a more dispersed manner away from the core. The disposition and use of the site in the manner indicatively shown would effectively result in a linear 'finger' of residential development protruding to the south-west of the village, rather than appearing as a more organic or 'natural extension' or infill to the village as has been suggested by the appellant.
13. I do recognise that the appeal site is largely contained in its context by a combination of existing development and landscaping, and whilst there would inevitably be some adverse impact from the loss of the natural and verdant character of the site itself, any adverse impact on the wider landscape character through the introduction of residential development would be more limited. There would not be any coalescence of settlements and there is no reason to believe that matters related to surface water drainage cannot be satisfactorily addressed through an appropriate scheme at the stage of a full application. In respect of biodiversity impacts, I have also had regard to the submissions on great crested newts, but note that there is no detailed evidence to substantiate them, with other recent ecological work and review failing to corroborate their presence
14. With regards the accommodation of the development within the capacity of existing infrastructure, there is no compelling evidence before me that the proposal would be unable to be accommodated within the infrastructure of the village, and I have no reason to doubt that the proposal would support the limited services that are available within Dalton, which must weigh in support of the proposed development. Furthermore, I would also accept that the proposal would provide some further support to the services and facilities within Topcliffe, the nearest *Service Village*, which is highlighted as being linked through the use of primary schools, shops and public transport.
15. I have noted the appellant's contention that there has been a degree of inconsistency in contrast with other recent planning decisions to allow residential development within and around Dalton, with particular reference made to two separate developments on Land at Frendene, as well as a replacement dwelling at Foxfield. However, and consistent with the conclusion reached by the Inspector in the January 2020 planning permission (*Ref. APP/G2713/W/19/3238540*), it is evident that the proposed developments on Land at Frendene represented a natural infill and rounding-off of the settlement, in contrast to the appeal proposal. Furthermore, I note that the development at Foxfield was a replacement dwelling and therefore would have been assessed in a different context and against different criteria.
16. For the above reasons, the proposal would not accord with the spatial policies of the development plan and would result in a form of development which would be uncharacteristic of the built form of the village. The proposal would also result in some limited harm to the character and appearance of the area.

17. Consequently, I conclude that the proposed development would be contrary to Policies CP1 and CP4 of the Core Strategy, and Policies DP9, DP10, DP30, and DP32 of the Development Policies, as well as the IPG. These policies set out high level principles guiding the distribution of development, the settlement hierarchy addressing development outside of development limits, the protection of the character and appearance of the countryside, and general design including respect for local character and form of settlements.

#### *Highway safety*

18. Details of access to the proposed development are identified as a reserved matter. However, the site location plan shows the shared private access lane to Dalton Lane which serves the existing properties as being the means of access to the site, with the indicative layout showing access to the individual properties as being from the existing private drive to Larks Edge.
19. The access from the appeal site to Dalton Lane is identified as being approximately 150 metres in length, with in the main an overall width of approximately 4.6 metres, albeit that a short 10 metre section narrows to 3.8 metres width. I observed that a verge of varying width persists for the length of the access lane. The lane appears to be used comparatively infrequently for access to the various properties.
20. The Council's concerns focus on the safety of the access for pedestrian use in conjunction with existing and future vehicular traffic. In this regard, I note that the existing access would already be relied upon as a pedestrian route by the residents of Larks Edge and Foxfield to the south west of the appeal site, as well as any pedestrians accessing Southland Farm or for the section closest to Dalton Lane, Brockhills. Despite this existing use, I have not been provided with any compelling evidence of highway safety concerns from conflict between existing levels of vehicular and pedestrian traffic.
21. I accept that the proposed development would have the effect of increasing the potential numbers of pedestrians that would be likely to use the lane, although I do not consider that any uplift in usage would overall be significant. Whilst inevitably there would also be an increase in vehicular access as a consequence of the development of four additional dwellings, this again is unlikely to result in a material change to the existing character from the use of the access lane.
22. The appellant has also drawn my attention to the designation of a bridleway (*Definitive Map Modification Order Ref: HAM/2015/04/DMMO*) by North Yorkshire County Council from Harriers Croft to Dalton Lane, which includes the access lane. In this regard, I find the appellant's contention that the absence of objections at the time of the consultation on its designation suggests that it was deemed the access lane was considered safe for pedestrians, to not be unreasonable. The Council has not disputed this conclusion.
23. I also note that North Yorkshire County Council acting as the Highway Authority has not raised any objections to the proposed development on highway safety grounds, subject to the imposition of an appropriate condition, which I find weighs further in support of the proposed development on this ground.
24. I have had regard to the concerns raised by interested parties regarding the future upkeep and maintenance of the access lane. However, given the access lane is not designated as adopted highway, I find this to be a private matter

and therefore not of any relevance in considering the planning merits of this case.

25. As such, I am not persuaded that the proposed development would result in the contended adverse impact on pedestrians, and I am satisfied that the proposed development would not result in an unacceptable impact on highway safety as a consequence of conflict between pedestrians and vehicles. For these reasons, the development does not therefore conflict with Policy CP2 of the Core Strategy, or Policies DP3 and DP4 of the Development Policies. These policies seek to ensure that development proposals improve the general level of accessibility, ensure safe and easy access for all, and provide for and improve sustainable forms of access to the site including for pedestrians as a means of reducing the need to travel by private car.

#### *Living conditions*

26. I have carefully considered the proximity of the appeal site to Southlands Farm, and the former poultry sheds. In particular, I have had regard to the concerns which have been raised by the Council regarding the potential for disturbance to the living conditions of future occupiers of the proposed dwellings from noise and odours as a consequence of the proximity of the adjoining land uses, and how the commercial units may be used in the future.
27. In the submitted evidence, I have been directed to the conclusions of another Inspector in an appeal (*Ref: APP/G2713/W/16/3155159*) dismissed in June 2017 for the outline residential development of land further to the east of the appeal site. In that instance, similar concerns were addressed, with the conclusion reached that in recognising that the units were now being operated in a lawful Class B8 use, that there was no evidence *of a realistic likelihood that the buildings would revert to their original use, or that the current use would be intensified to such an extent as to cause harm through noise or disturbance.*
28. I accept that the proposed units would be closer than those that had been proposed in the 2017 scheme, and I am also mindful that a significant number of existing properties, including Larks Edge itself, would be located within the guided separation distance of 400m previously published by the government (DEFRA) as advisable between livestock buildings and non-associated residential premises. However, it is pertinent to note that there do not appear to have been historical complaints regarding the use of the units, and the current owner has submitted informal correspondence to indicate there to be no intention to revert back to the previous poultry farming use. From the submitted evidence, I do not consider the reported circumstances to be materially different to those encountered by the Inspector for the 2017 appeal, and as such I see no basis from which to reach a different conclusion.
29. For these reasons, I am satisfied that the living conditions of future occupiers would be adequately safeguarded, having regard to noise and odours. The proposal would not therefore conflict with Policy CP1 of the Core Strategy or Policy DP1 of the Development Policies, which seek to ensure that all development proposals protect the amenity, health and well-being of the population and make provision for the basic amenity needs of occupants. In this respect, I also find that the proposal would accord with the aims and objectives of the Framework.

#### **Other Matters**

30. The appellant has highlighted some of the Council's wider objectives, including the need to provide housing that meets the needs of the residents of the district, and in particular is affordable, to significantly boost the proportion of new houses that are lower priced and are available for local first-time buyers, and to direct development to settlements where there is likely to be future demand and capacity for increased employment activity.
31. The appellant has indicated with the submissions that the proposed development would support a local need, at least in part as generated by future demand from increased employment activity at Dalton Industrial Estate. However, whether or not this might be the case is unsubstantiated and, in any event, even if a demonstrable local need as described prevailed, no mechanism to ensure that the development is secured to specifically meet that need has been proposed. I have not therefore attached any significant weight to this contention.

### **Planning Balance and Conclusion**

32. The provision of four additional dwellings would make a limited positive contribution to the local housing market in a comparatively accessible location with access to a selection of services and facilities in Dalton and Topcliffe. The local economy would also have the potential to have some limited benefit during the construction period and from any expenditure from future occupiers.
33. Nevertheless, whilst acknowledging the above benefits and that the proposal would not have an adverse effect on highway safety or the residential amenity of future occupiers, for the reasons already set out above, the proposed development would not accord with the Spatial Strategy of the development plan, and would have an adverse impact on the character and appearance of the area. As a consequence, I have not found the proposal to amount to sustainable development or to be in accordance with the development plan.
34. For the above reasons, the appeal should be dismissed.

*Martin Seaton*

INSPECTOR