



## Appeal Decision

Site visit made on 16 December 2020

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

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

**Decision date: 13 January 2021**

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**Appeal Ref: APP/E2001/W/20/3259974**

**Land south of 45 Mill Road, Swanland, East Riding of Yorkshire HU14 3PJ**

- 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 G Cuthbertson against the decision of East Riding of Yorkshire Council.
  - The application Ref 20/01874/OUT, dated 16 June 2020, was refused by notice dated 3 September 2020.
  - The development proposed is outline - erection of three detached dwellings (all matters reserved).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description and location of the development given on the planning application form have been replaced by amended wording on the Council's decision notice and subsequent appeal documents. I consider that the amended wording accurately reflects the proposal and I have therefore used it within this Decision.
3. The application was submitted in outline with all matters reserved for future consideration. I have dealt with the appeal on that basis, treating the proposed site layout plan as being indicative.

### Main Issues

4. The main issues are:
  - Whether the site would be a suitable location for housing with regards to development plan policy;
  - The effect on the landscape between settlements;
  - The effect on mineral extraction; and
  - The effect on the living conditions of nearby residents in respect of privacy, noise and disturbance.

## Reasons

### *Development Plan Policy*

5. The appeal site is located outside of the defined Development Limit for Swanland. The area is therefore classed as being in the Countryside for the purposes of development plan policy. Policy S4 of the Council's Local Plan<sup>1</sup> identifies certain forms of development which will be supported in the Countryside.
6. One of the forms of development supported by policy S4 is new dwellings of exceptional quality or of truly outstanding innovative design. The appellant contends that the proposal would meet this requirement, although as an outline application there is no substantive evidence to support this statement. It has therefore not been demonstrated that the proposal would meet this requirement of policy S4.
7. Policy S4 also encourages the re-use of previously developed land (PDL). The appellant submits that the appeal site would comply with this as he considers that it is within the curtilage of a water tower, and has provided land ownership records which indicate that the site was purchased as part of the land on which the water tower was built. However, land ownership is not the sole determinant of curtilage. I saw that the water tower is set within its own enclosure, and the historical nature of this is supported by images provided by the Council. The appeal site is also in a different use than the water tower, in that it is in use for agricultural purposes. The appeal site is not an integral element of the site of the water tower and is distinctly separate from it. I conclude that as a matter of fact and degree, the appeal site is not within the curtilage of the water tower and is therefore not PDL.
8. Drawing the above together, it has not been demonstrated that the proposal would represent development on PDL or dwellings of exceptional quality or of truly outstanding innovative design, or indeed any of the other forms of development in the Countryside supported by policy S4. The proposal would therefore conflict with policy S4 of the Local Plan in respect of development of housing in the Countryside.

### *Landscape*

9. The appeal site is located in an area of fields between Swanland and the nearby settlement of North Ferriby. Due to the limited size of the area of landscape between these settlements, these fields play an important role in preventing their coalescence.
10. Policy ENV2 of the Local Plan seeks to protect the identity of settlements where there is a risk of coalescence. This refers to the use of identified Key Open Areas and the appeal site is not included within one of these. However, the policy indicates that this is only one of the measures available, and the supporting text sets out that other areas may perform a similar albeit more localised role. The Council emphasises that the site is within a defined Important Landscape Area.
11. There is an extent of residential development on the opposite side of Woodgates Lane which also projects into this landscape gap, and the appeal

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<sup>1</sup> East Riding Local Plan Strategy Document 2016

proposal would only project slightly further than the extent of that development. Nevertheless, it would reduce the landscape gap between the settlements, and would introduce built development into an open area of land. Due to the scale of the proposal, it would only have a limited effect on the landscape and the contribution it makes to preventing the coalescence of settlements. Nevertheless, it would lead to material harm to the gap between the settlements, and mindful of the sensitivity of this gap, this weighs against the proposal.

12. The appellant refers to permission given for the adjacent dwellings on the corner of Woodgates Lane and Mill Road to the west of the junction, which was considered to be infill development. However, the circumstances of those dwellings are different to the appeal proposal in respect of the nature of the road frontage and the gap established by the water tower. Even allowing for the directly adjacent dwellings and the development on the opposite side of Woodgates Lane, the proposal would lead to new-build development projecting into the landscape, rather than infill development as contested by the appellant.
13. The site is not within the Green Belt or an Area of Outstanding Natural Beauty. However, this does not detract from the classification of the site as an Important Landscape Area or its role regarding the coalescence of settlements.
14. I saw that there was development being undertaken elsewhere in this gap at the time of my visit, although I have not been provided with details of the circumstances that led to that development gaining approval. In any event, this served to confirm the importance of this area of landscape in maintaining the separation between settlements.
15. I conclude that the proposal would harm an Important Landscape Area between settlements at risk of coalescence, and would therefore be contrary to the landscape requirements of policy ENV2 of the Local Plan.

#### *Mineral Extraction*

16. The appeal site is within a Mineral Safeguarding Area (MSA) as identified on the Policies Map. Policy EC6 states that non-mineral development will only be supported in an MSA where it meets a number of criteria, including that the underlying mineral is of limited economic value.
17. The appellant has provided an opinion from a Chartered Surveyor<sup>2</sup> which identifies that the MSA designation is due to chalk deposits beneath the land, and concludes that the underlying material is of limited value. This opinion refers to the Joint Minerals Local Plan<sup>3</sup> and a background paper<sup>4</sup> which call into question the value of safeguarding the whole of the extensive chalk deposits. The Council has provided no substantive evidence to contradict this. Therefore, based on the evidence before me, the underlying mineral is of limited economic value.
18. I am mindful of the effect of the proposal on exclusion areas in respect of blasting and landslips. However, whilst the proposal may extend such exclusion

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<sup>2</sup> Letter from Bielby Associates, 1 October 2020

<sup>3</sup> East Riding of Yorkshire and Kingston upon Hull Joint Minerals Local Plan, 2019

<sup>4</sup> Background Paper 2 Mineral Safeguarding Areas, March 2016

areas, it has not been demonstrated that this would affect mineral deposits of other than limited value.

19. I conclude that the proposal would comply with policy EC6 of the Local Plan as the underlying or adjacent mineral affected by the development is of limited economic value.

#### *Living Conditions*

20. The appeal site is located to the rear of dwellings on Mill Road. These properties have gardens with an open aspect to the rear, and the proposed dwellings and associated activities would therefore be readily apparent to the existing residents.
21. However, the appeal site is of a size and arrangement where a suitable separation distance between the existing and proposed dwellings could be provided. There is therefore no evidence that there would be an intrusive degree of overlooking from the proposed dwellings. Whilst pedestrian and traffic movements along the access road would be apparent, this would not be unduly intrusive in respect of privacy and in any event could be mitigated by suitable means of enclosure as is common in many residential developments.
22. Furthermore, whilst existing residents would be aware of activities within the appeal site, I do not consider that noise and disturbance associated with three dwellings, including vehicle movements, would be of a degree to warrant the refusal of planning permission.
23. I conclude that the proposal would not harm the living conditions of nearby residents in respect of privacy, noise and disturbance. The proposal would therefore not conflict with policy ENV1 of the Local Plan regarding the amenity of existing properties.

#### **Other Matters**

24. The appellant refers to an acute shortage of bungalows suitable for older and/or disabled people, and that he intends to occupy one of the bungalows on that basis. However, no substantive evidence has been provided regarding the matter of supply, or that dwellings of this nature cannot be provided in more policy compliant locations. Moreover, there is no suggestion that the occupancy of the dwellings would be limited to people with disabilities or personally to the appellant. These matters do not therefore weigh in favour of the proposal.
25. The development would provide work for local tradesmen, however given the scale of the proposal would be to a limited degree and for a limited period of time.
26. I note the frustrations expressed by the appellant in respect of details given in a land search on the site as well as feedback from the Council in the process leading up to its decision. However, these are not matters for this appeal, which I have determined on its planning merits.

#### **Conclusion**

27. Notwithstanding my conclusions in respect of mineral extraction and living conditions, I conclude that the proposal would conflict with the adopted development plan regarding the location of housing development and the effect on the landscape. The Council confirms that it has a 5 year supply of

deliverable housing land and there is no evidence that the policies of the local plan in respect of this proposal should not be awarded full weight. The proposal would conflict with the development plan when read as a whole regarding development in the Countryside and promoting a high quality landscape. There are no material considerations of such weight which indicate that the proposal should be determined otherwise than in accordance with the development plan.

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

*David Cross*

INSPECTOR