



Appeal Decision

Site visit made on 14 December 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2021

Appeal Ref: APP/G2713/W/20/3259999

land at South Back Lane, Tollerton YO61 1PU

- 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 Ian & Joe Hardy against the decision of Hambleton District Council.
 - The application Ref 20/00492/FUL, dated 5 March 2020, was refused by notice dated 19 June 2020.
 - The development proposed is full planning application for the creation of 5no. bungalows.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the period since the application which lead to this appeal was determined by the Council, the Examination in Public of the replacement Local Plan (rLP) has commenced. The Council consider that the provisions of these policies carry only limited weight due to the early stage of the rLP process but have nevertheless provided an assessment of the proposal against the provisions of the rLP. The appellant has had the opportunity to comment upon the implications of the rLP, suggesting that its policies have very limited, rather than just limited, weight. At best these policies have limited weight and I have determined the appeal accordingly.
3. Additionally, in the period since the refusal of the planning application, the appellant has submitted further information regarding drainage layout and calculations. The Council have confirmed that they are satisfied that these matters could be dealt with by way of suitably worded planning condition and are therefore no longer an area of significant dispute between the parties. I have determined the appeal accordingly.

Main Issues

4. The main issues are the effects of the proposed development on:
 - The character and appearance of the surrounding area and the setting of the Tollerton Conservation Area; and
 - Highway safety.

Reasons

5. The appeal site lies beyond the settlement boundary for Tollerton as defined by the development plan. Core Strategy (CS) policies CP1 and CP2 set out the

Council's approach to encouraging sustainable patterns of development whilst CS policy CP4 supports development of a scale and nature appropriate to each settlement commensurate with its position within the district's settlement hierarchy. There is no dispute between the main parties that Tollerton, a secondary village, is capable of accommodating new residential development.

6. However, CS policy CP4 goes on to set out criteria against which development outside settlement boundaries will be considered, supported by Policy DP9 of the Council's 'Development Policies' Development Plan Document (DPD). The appellant makes no case in respect of the provisions of CS policies CP4(i) to (vi) or DPD policy DP9. Conflict is also cited with CS policies CP1 and CP2 in terms of how they seek to encourage sustainable patterns of development.
7. However, the Council adopted an Interim Policy Guidance note (IPG) in 2015 to reflect the provisions of the more recent National Planning Policy Framework (the Framework) which comfortably post-dates the CS and DPD. The IPG does not form part of the development plan but at its heart is an aim to support development where it contributes towards achieving sustainable development or enhancing the vitality of the local community. This is broadly consistent with the aims of the Framework and is therefore an important material consideration to which I give substantial weight.

Character and appearance

8. South Back Lane is a pleasant, narrow lane which runs parallel to Main Street linking Newton Road to the northeast with Ings View to the southwest. An increasing number of houses are accessed directly from South Back Lane whilst those houses which front Main Street also have a visual presence, albeit at distance, along South Back Lane.
9. Despite this, South Back Lane retains a distinct and pleasing rural character. Although the presence of residential development, whether recent or less so, is never far away, the narrow single-track carriageway, grass verges and hedges, and pastoral views through field gate openings and through hedges all contribute towards an over-riding, pleasant rural character. Although the prevailing character has been eroded by the creep of newer development towards each end of the lane, the middle portion, of which the appeal site is part, retains this pleasing pastoral setting. As such, it is a significant factor in contributing to the pleasing setting of the Tollerton Conservation Area (CA), the boundary of which lies immediately opposite the site. Moreover, the presence of more recent, and in some cases currently on-going, residential development makes the importance of this middle portion of South Back Lane greater rather than a justification for further residential development.
10. Thus, the removal of the field hedge along the site's South Back Lane frontage would be a significant jolt to, and indeed cause irreparable harm to, the site and wider area's prevailing character. The proposed site layout shows instead a truncated replacement hedge planting scheme along the site frontage on a different alignment to the existing, but I am not persuaded that it would be sufficient, or sufficiently robust, to effectively replace what would be lost. Whilst individual plot entrances would be minimised, the opening for the road entrance would punch a further hole into the replacement planting whilst the shared driveway which would serve three of the five plots and run parallel to South Back Lane would introduce a further incongruous and alien feature into the South Back Lane environment.

11. It was clear at the time of my visit to the site that there was recent and on-going residential development on South Back Lane, notably land immediately to the northeast of the appeal site, and also a short distance away to the southwest. These, and other developments have no doubt altered the character of South Back Lane over time, and the on-going development will continue that trend.
12. However, the appeal site is distinct in that it is not part of a former timber yard or had farm buildings within it. Nor is it 'enclosed' by development to the south. Church Close is visible across the field but is not a defining or dominant feature. Views across the appeal site towards and over open fields to the south, as well as across the site itself, are stronger factors in the area's character, and the presence of Church Close in the distance, or the residential development to the northeast and southwest along South Back Lane do not erode the prevailing rural character of the site, or of South Back Lane itself.
13. Notwithstanding the incremental creep of residential development along South Back Lane, the open, rural easterly aspect along its middle portion is an important element, and reminder, of the lane's former and current character, and also the setting of South Back Lane and the adjacent CA. The village's main historic core is centred around the village green and along Main Street, but the pastoral setting of South Back Lane is an important element of the CA's character and setting.
14. The widening of the lane itself to create a greater carriageway width along with the creation of footpaths on both sides of the road would be harmful in itself, but would add to the harm South Back Lane's pleasant, rural character that I have already identified. Thus, not only would the existing dense roadside hedge be lost as a consequence of the proposal, but the pleasant grass verges would be replaced by pavement. The result, an incongruously urban stretch of carriageway and paving at odds not only with the prevailing character of South Back Lane, but also incongruous in that it would be an isolated stretch of pavement where none exists nor, given the quiet nature of the lane, is it particularly needed.
15. Whilst the proposed footpath link through the grounds of Manor Farm would provide a useful link and shortcut to the services and facilities within the village's historic core, its absence would not alter the convenience and attractiveness of accessing those from South Back Lane along existing routes. I do not agree with the Council that the creation of the link would cause harm to the character or appearance of the CA, but I saw that the grounds around existing dwelling at Manor Farm were open and thus afford countryside views from Main Street and the CA. Conversely, they also afford glimpses of Main Street and into the CA from South Back Lane and the end of the adjacent bridleway. Despite the limited scale of the single storey bungalows, they would intrude into, if not completely obscure these views, thereby causing further harm to the rural setting of Tollerton, and failing to preserve or enhance the character, appearance and setting of the CA.
16. Although the Council's delegated report described the proposed bungalows as being 'overtly suburban' in character, the third refusal reason merely concludes that the design and type of the properties would not be in character with the local area. Away from the immediate core of the village around the green and Main Street, the design, scale, appearance and materials of properties becomes

more varied. The proposed bungalows in this instance are modest in both scale and aspiration, albeit perhaps lacking individuality or character as just 'handed' versions of the same house type, with a palette of materials broadly consistent with the wider mix within the village. Nor are bungalows or single storey cottages particularly uncommon.

17. Rather, if there is to be any accusation of being 'overtly suburban' levelled at the proposal, it is in terms of its layout and location. The widening of the lane, the introduction of pavements on both sides of the lane, the loss of the existing hedge and realignment with new planting and the lengthy shared driveway parallel to South Back Lane are all factors which persuade me to the Council's conclusion regarding an 'overtly suburban' character, not the design or appearance of the dwellings, per se. This adds weight to my conclusions regarding the effect of the proposed development on the character and appearance of the surrounding area.
18. I accept that, having regard to the criteria set out in the IPG, the proposal would be considered to be small scale. It would also be adjacent to the main built form of Tollerton and would support local services, facilities and transport provision in a manner consistent with sustainable development patterns and ideals and which would contribute to the vitality of the local community.
19. However, for the reasons I have set out above, I do not consider the proposed development to effectively or positively reflect Tollerton's existing built form or character. Moreover, as such, it would also have a detrimental impact on the character, appearance and pleasant rural setting of the village and its built environment and also on the open character and appearance of the adjoining countryside. I accept that views of existing housing development are available across the appeal site towards Church Close but, so too, are views of open fields, intervening field hedges and trees typical of a rural setting surrounding a rural village, and these views do not detract from or diminish the pleasant rural character that South Back Lane retains.
20. For these reasons, the proposal would be contrary to CS policies CP1, CP2 and CP4, and DPD policy DP9, and would fail to satisfy the exceptions to CS policy CP4 or DPD policy DP9 set out in the IPG, particularly IPG(2), (3) and (4). The site also lies directly opposite the Tollerton Conservation Area boundary. Although not within the CA, the Framework¹ nevertheless notes that proposals that preserve the elements of the setting that make a positive contribution to the asset should be treated favourably. The proposal would fail to do so, for reasons I have set out above. As such, there would also be conflict with CS policy CP16 and DPD policies DP28 and DP30 and with the Framework.
21. Insofar as they only carry limited weight, the proposed development would also be contrary to rLP policies S1, HG5, E1, E5 and E7, which also deal with matters relating to character and appearance and the historic environment. As the provisions of the rLP carry, at most, only limited weight, they have not been central to my consideration of this matter and do not alter my conclusions on the main issue, having regard to the provisions of the CS, DPD and IPG, and Framework, as set out above.

¹ Paragraph 200

Highway safety

22. The proposed development makes provision for an increase to the width of the stretch of South Back Lane directly adjacent to the appeal site, along with the addition of pavements on both sides of the widened road and a footpath link through the grounds of Manor Farm to link South Back Lane with Main Street. However, the benefits of the increased width to motorists here would be offset slightly by the wider nature of the lane as it currently exists at this point in any event and so the benefits, in highway safety terms, carry slightly less weight than they might otherwise have done.
23. The Council have not disputed the appellant's trip generation data as set out in the 'Highways & Transportation Statement of Case'² submitted with the appeal. Nor have the appellant's conclusions regarding accident data at the South Back Lane / Newton Road junction been challenged. Having viewed this junction and the approach to it along South Back Lane as both pedestrian and motorist, I share the Council's concerns regarding alignment of the latter and visibility at the former. It is also likely, given the appeal site's position on South Back Lane, that this route, rather than that along Main Street and Ings View, will provide the main access to and egress from the site onto the surrounding highway network.
24. However, given the modest scale of the proposal and the limited quantum of vehicle movements attributable to the appeal proposal, and taking into account recent developments on South Back Lane, I am not persuaded that South Back Lane or its junction with Newton Road is inherently unsuitable for the limited amount of traffic likely to be generated by the proposed development. As such, conflict with CS policies CP1 and CP2 and with DPD policy DP4 sufficient to justify dismissal of the appeal on highway safety grounds has not been demonstrated.

Other Matters

25. Post-decision, the appellant has submitted further details in the form of a drainage scheme setting out proposals for foul and surface water drainage. Although it seems that the Council have not directly sought the views of Yorkshire Water in relation to the submitted drainage scheme, they are satisfied that such details and measures could be controlled by planning condition. I see no reason to disagree but, as I have found harm in relation to character and appearance, I have not considered this matter any further at this time.

Conclusion

26. For the reasons set out, and having considered all other matters raised, I conclude that the proposal should be dismissed.

Graeme Robbie

INSPECTOR

² Appendix 5 to appellant's Statement of Case: Andrew Moseley Associates 'Highways & Transportation Statement of Case' dated 17 September 2020