



Appeal Decision

Site Visit made on 26 January 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/E2734/W/20/3259171

**Spring Lane Farm, Yew Tree Lane, Burn Bridge, Pannal, Harrogate
HG3 1NR**

- 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 James Holmes of DH Land Ltd against the decision of Harrogate Borough Council.
 - The application Ref 18/04288/OUTMAJ, dated 12 October 2018, was refused by notice dated 31 March 2020.
 - The development proposed is an outline planning application for the residential development of up to 48 dwellings (with access for consideration only) at land adjoining Spring Lane Farm, Pannal.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for access. An illustrative masterplan has been submitted. This has formed part of my consideration of the appeal.
3. In response to an update to the Planning Practice Guidance (the Guidance) relating to self-build and custom housebuilding and a number of appeal decisions submitted by the SLA Defence Group I provided the main parties with an opportunity to submit further comments on these matters. I have had regard to the submissions received in reaching my decision.
4. Vehicular access is proposed off Yew Tree Lane, between the Methodist Chapel and Spring Lane Farm. The illustrative Masterplan submitted also shows the opportunity for a parking and drop-off area, intended to serve the Methodist Chapel and associated nursery. A considerable number of people have raised concerns with the proposal's effect on the safety of the highway, the capacity of it, and the safety of users such as school children and pedestrians. I have had regard to these concerns, but I agree with the Highway Authority that subject to the imposition of planning conditions to achieve road improvements, widened footways, extended visibility splays and the introduction of a speed table and passing place on Spring Lane, the proposal would not have an unacceptable impact on highway safety or the operation of the local road network. I do, however, note that there are concerns raised about some of these works in relation to the main issues that I set out.
5. A signed Section 106 Agreement (s106) has been submitted by the appellant. This covers matters or contributions including: affordable housing, education, open space, self-build and custom build plots, and to improve the Scout Hut in

Pannal. The Council accepts that the submitted s106 would address the second, third and fourth reasons for refusing planning permission.

6. The obligations relating to affordable housing, public open space, education facilities and the scout hut would meet the tests of paragraph 56 of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure (CIL) Regulations. Thus, I conclude that the proposal would make adequate provision for these and that the scheme would accord with Policies HS2 and TI4 of the Harrogate District Local Plan 2014 – 2035 (Local Plan), the Provision for Open Space Supplementary Planning Document and the Provision for Village Halls Supplementary Planning Document.

Main Issues

7. The main issues are: (a) whether the appeal site is a suitable location for the proposed development, having regard to development plan policies relating to the location of development in the Borough; (b) the effect of the proposal on the landscape character of the Crimple Valley Special Landscape Area (SLA) and the public right of way (PROW) network; and (c) whether the proposal would preserve or enhance the character or appearance of the Pannal Conservation Area (PCA), the setting of the non-designated heritage assets of Spring Lane Farm and Pannal Methodist Church.

Reasons

Location of development

8. The appeal site is on the northern edge of Pannal within the SLA, but outside the development limit of the village, which lies immediately to the south and west of the site. Pannal Methodist Church and Wesley Cottage adjoin the western site boundary. Spring Lane Farm, a stone-built farmhouse and associated stone outbuildings, adjoins the northern site boundary. The site is 2.86 hectares in area and is bound by hedgerows along Yew Tree Lane, Spring Lane and to the north. The eastern boundary is made up of mature tree planting abutting Clark Beck. These are subject to a Tree Preservation Order (TPO) and there are further individual TPO trees on the site.
9. Local Plan Policy GS2 outlines that new homes and jobs will be met as far as possible by focussing growth within the district's main settlements. The policy goes on to set out the Settlement Hierarchy for the district. Local Plan Policy GS3 identifies the development limits for places in the Settlement Hierarchy. Those limits indicate the extent to which each settlement should be allowed to develop during the plan period and where, within the defined area, there will be a presumption in support of development. Pannal is a Service Village, but the appeal site lies outside the development limits. As such, the site is part of the wider countryside where development will only be appropriate if permitted by other policies in the Local Plan, a neighbourhood plan or national policy. In the countryside there is a stricter control over development.
10. There is no dispute between the main parties that the Council can currently demonstrate a deliverable housing supply of around 6.81 years. Nor are there any other development plan, neighbourhood plan or national policies that expressly support the appeal scheme.
11. Accordingly, the appeal site is not a suitable location for the proposed development, having regard to development plan policies relating to the

location of development in the Borough as conflict would be caused with Local Plan Policies GS2 and GS3. These jointly seek to direct new homes by focussing growth within the district's main settlements and their identified limits. The scheme would result in significant harm in this respect.

Landscape character

12. The appeal site is a field that extends from Pannal Methodist Church and Wesley Cottage alongside Spring Lane. The site has a narrow road frontage to Yew Tree Lane between the church and the farm where vehicular access is proposed to be taken. The SLA is designated as it is valued locally for its high-quality landscape and importance to the setting of Harrogate. Local Plan Policy NE4 states that development within the SLA needs to: avoid significant loss of key characteristics that contribute to the quality of the SLA and the setting of Harrogate; and ensure that development proposals that are not linked to policies HS6, HS7 and HS9 are linked to existing settlements and are designed to integrate the urban edge with the countryside and to enhance the appearance of the urban fringe. The SLA is important both to the rural setting of Harrogate and in preventing the coalescence of Pannal with Harrogate.
13. The appeal site is part of a larger area of open rolling countryside, interspersed with pockets of woodland and fields bound by hedges and individual trees. It has a tranquil rural, pastoral character with development typically limited to individual farmsteads, save for the church, farm and Wesley Cottage that are next to the site. Otherwise the area to the north of Spring Lane and the west of Yew Tree Lane is scarce of development. Roads in the area, including Spring Lane and Yew Tree Lane provide clear and distinct boundaries between the built form of Pannal and the countryside that lies around it.
14. Developing the site for housing would be an evident addition of built form into the countryside beyond the roads that distinguish between Pannal and the countryside. The scale of the development would significantly harm the role the SLA plays in separating Harrogate and Pannal given that the landscape is sensitive to change, especially though the extension of the urban edge. The additional development in what is a relatively modest gap between the respective settlements would adversely change its character and its qualities.
15. The nature of topography in the area would mean that views of the site would vary. The buildings associated with Spring Lane Farm would inhibit views from Yew Tree Lane to the north, but they would not prevent them altogether due to the shape of the site which will, alongside the number of homes proposed, influence its layout. Due to the gradient of Spring Lane, the quantum of dwellings proposed would be likely to be a prominent form of development. I do not share the appellant's view that screening the existing dwellings on Spring Lane would be a beneficial aspect of the proposal.
16. The proposed highway works would not be widely appreciable from the wider landscape, but they would urbanise a section of what is a rural lane that affords an edge to the settlement. The harm caused would be modest, but this adds to my concerns about the proposal's effect on the area's landscape character.
17. I realise that the appeal scheme would not result in the loss of any PROW, but it would be visible from several places on PROW's that extend across the landscape. The ease of access provided by PROW's is one of the key characteristics of the SLA. Although views of the site from PROW's would be

from some distance, the proposal would likely be a marked extension of development into the countryside beyond the strong physical boundaries afforded by the roads. As such, the recreational and amenity value of rights of way in the area would not be protected, as required by policy HP5 (A).

18. A new 270 metre PROW would be formed along Spring Lane behind the existing mature hedgerow. This would be an enhancement as it would provide a new link to the existing PROW network. While this benefit is tempered by the need for it to make the development acceptable in highway safety terms, it is in accordance with Local Plan Policy HP5 (B).
19. I note the conclusion of the appellant's Landscape and Visual Impact Assessment and the Council's point about this given the earlier appeal decision for a much smaller scheme on the site. However, in my own view, the proposed development would be likely to lead to a large magnitude of change to this rural, pastoral landscape which would in turn likely amount to a substantial adverse visual harm to the landscape's character.
20. The retention of and addition of further native planting within the site including along the site's northern and eastern boundaries could soften the development to some extent, and help it respond to the rural character of the area. Over time this would develop. However, the planting nor the potential provision of gaps in the development to facilitate views through to the open countryside, would be highly unlikely to mitigate the harmful visual impact that the proposal could cause even some years later on the character of the landscape which contributes to the quality of the SLA and the setting of Harrogate.
21. I conclude, in respect of this issue, that the proposal would result in significant harm to the landscape character of the SLA, and the recreational and amenity value of the PROW network. On this basis, the proposal would conflict with Local Plan Policies NE4, HP2, HP3, HP5, GS2 and GS3; the Harrogate District Landscape Character Assessment and the Pannal Conservation Area Character Appraisal. These collectively require, among other things, development proposals to protect the character of locally valued landscapes, their key characteristics and the form, character and local distinctiveness of settlements, along with the recreational and amenity value of rights of way in the area.

Heritage assets

22. The PCA lies to the east and southeast of the site. The proposal would be located within the setting of the PCA and the key views that exist from its edge on Spring Lane near to the former schoolhouse and schoolroom buildings. From here there are long-range views to the north and north west across undulating farmland interspersed with scattered farmsteads. The site is a component of these key views, and thus the rural setting of the PCA. Developing the site for housing on the scale proposed would, together with the proposed highway improvement works, harm the PCA's rural setting. I note the potential use of a design code, but the proposal would still cause less than substantial harm having regard to the Framework.
23. The site lies in the immediate setting of the non-designated heritage assets of Pannal Methodist Church and Spring Lane Farm. The site's rural agricultural character significantly contributes to the setting of these buildings which can be viewed from vantage points nearby, but also from some points further away. The proposal would introduce a large stretch of development along Spring Lane

which would erode the immediate setting to these buildings, and thus their significance. Added to this, by adding a car park / drop off facility in-between the non-designated heritage assets, the proposal would harm what is distinctly a rural landscape. Although the car park / drop off facility could allow vehicles to park off the road, I still consider that the proposal would cause moderate visual harm to the setting of each heritage asset.

24. Framework paragraph 196 requires the less than substantial harm to the PCA that I have identified to be weighed against the public benefits of the proposal. Framework paragraph 197 sets out, insofar as the non-designated heritage assets, that a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. Local Plan Policy HP2 is consistent with the Framework, but the scheme's impacts would still be harmful and adversely affect the significance of the heritage assets. This requires clear and convincing justification which I consider below.

Self-build and custom-build housing

25. The Council has a duty under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) ('the Act') to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. Framework paragraph 61 is supportive of this type of housing.
26. The Council's Self and Custom House-Building Register was established on 1 April 2016. The main parties agree on the number of persons who have been added to the register in each base period since this date. The demand for each base period must be met by 30 October 3 years after the end of that period. The demand for the first and second base periods (222 entries) was to be met by 30 October 2020. A further 121 entries were added in the third base period. This demand is to be met by enough suitable permissions on 30 October 2021.
27. For the purposes of meeting the demand, the Act defines a development permission is suitable if it is a permission in respect of development that could include self-build or custom housebuilding. The Guidance outlines examples of how authorities could determine whether an application, permission or development is for self-build or custom housebuilding¹.
28. There is considerable difference between the main parties about the extent to which the Council is meeting demand for this type of housing. The Council say that 326 permissions have been granted to meet the demand set by the first and second base periods, which would help address some of the third base period. However, the appellant's analysis leads to 120 of these permissions being discounted, mostly as the authority would not be able to satisfy itself that the initial owner of the home will have primary input into its final design and layout. The Guidance² supports this stance. I agree with the appellant's evidence insofar as these permissions.
29. Of the remaining permissions, the appellant says that 11 of these should count towards meeting the demand. I don't disagree, but there is insufficient evidence about the remaining 195 permissions to conclusively say that all of these can or could count towards meeting the demand and fulfilling the Council's duty. This is mainly due to the lack of evidence to confirm whether

¹ Paragraph: 038 Reference ID: 57-038-20210508

² Paragraph: 016 Reference ID: 57-016-20210208

the initial owner of the home will have primary input into its final design and layout, but also due to the applications not referencing or identifying the provision of self-build or custom-build plots. The Council have also confirmed that none of the permissions granted between 1 April 2016 and 30 October 2020 have been subject to a planning obligation or planning condition which would ensure the delivery of this type of housing.

30. Thus, the number of suitable permissions granted by the Council to address the first two base periods is likely to lie somewhere between 11 and 206. Whichever figure it is, it is less than the entries on the register for these periods. However, even if I am wrong, there is still a duty to grant enough suitable development permissions to meet the demand arising from the third base period. The proposed 29 self-build or custom build plots would represent around 25% of the permissions needed for this period. Added to this, it would respond to the interest expressed on the register for plots in solely in Pannal or in one or more locations. The s106 would secure this element of the scheme for self-build or custom-build housing and would satisfy the tests set out in Framework paragraph 56. The s106 would allow the self-build or custom-build houses to revert to market dwellings after a marketing period, which could mean a lower provision of such houses in practice, but the duty is to grant enough suitable development permissions.
31. The Council are updating their register so that it has two parts. There needs to be strong justification for applying the additional eligibility criteria. I don't have this justification before me, but time will tell whether it will provide a more robust set of data to understand the demand for this type of housing.
32. The development plan includes a requirement for 5% of dwellings on sites over 500 units to be for this type of housing. The Council could also seek to meet the demand by weighing the provision of this type of housing in their decision-making against other considerations. However, in addressing the third base period alone, the provision of up to 29 self-build and custom-build houses would be a substantial public benefit. The position in respect of the first two base periods would only confirm the weight that this provision carries.

Housing contribution

33. The Council say that the proposal is not necessary to meet the housing needs of the District and it can point to a five-year supply of deliverable housing sites. The Local Plan sets out a long-term Growth Strategy to deliver housing across the District. This was subject of scrutiny through the examination process and saw several sites, including the appeal site discounted from the proposed allocations. That said, the proposal, including its affordable housing offer would contribute to the supply and mix of new homes in Harrogate. Whilst the Framework seeks to significantly boost the supply and broaden the size, type and tenure of houses, this aspect of the proposal would be a modest public benefit given the Council's Growth Strategy and the harm that I have identified in respect of the scheme's location, effect on landscape character and PROW's.

Highway and car park/drop off improvements

34. The car park/drop off facility would, in my view, be a limited public benefit to the community as the evidence does not suggest there is a significant highway safety issue given the single accident in the last five years.
35. The provision of a footway along Spring Lane would bring accessibility benefits

to the public who use the lane by providing a well-designed and safe route for vulnerable users. This would avoid potential conflicts given the topography and width of Spring Lane and provide a more attractive route for users which could encourage travel by sustainable modes of travel. The highway improvements would also provide some public benefit, but the landscape character harm that the proposal would lead to nullifies this.

Economic

36. The proposal would also bring economic public benefits in terms of jobs and spending within the local economy whether that be from the construction and supply chain or ongoing future occupier spending. These attract moderate positive weight in the current economic climate.

Open space and scout hut

37. As I have stated earlier, the proposal would make adequate provision for public open space, education facilities and the scout hut. While these are all public benefits, the s106 would simply secure a policy compliant position which seeks to cater for the needs generated by the development. However, social and environmental benefits to the public would arise from the open space and scout hut contributions. Thus, these carry limited positive weight.

Biodiversity

38. Landscaping is a reserved matter, but I note the appellant's intentions concerning biodiversity. Precise details of any landscape scheme would be for a later date if the appeal were allowed, but the evidence suggests that they would either be needed to satisfy policy or help mitigate the development's likely impacts. Thus, these matters do not amount to a public benefit.

Would the scheme's public benefits of the scheme outweigh the harm to heritage assets?

39. Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generation. I attach considerable importance and great weight to the harm that I have identified in respect of the PCA, but the public benefits of the appeal scheme, would clearly outweigh this. I also consider that in balancing the moderate visual harm to the non-designated heritage assets, these same benefits outweigh this. I conclude in respect of this issue that the proposal would accord with Local Plan Policy HP2 and Framework paragraphs 196 and 197.

Other matters

40. Various appeal decisions have been referred to in the evidence. However, many of these relate to the sites not subject of a landscape policy designation, or in considering the effect of the development proposed on landscape character, including the site at Rossett Green Lane, were found not to be harmful. The circumstances are not directly the same to this case, but these decisions and those submitted by the SLA Defence Group emphasise the need to consider and determine each proposal on its own merits in accordance with the development plan unless material considerations indicate otherwise. I have therefore arrived at a balanced judgement against the evidence submitted. I understand a decision was made for a Permission in Principle scheme for up to 5 dwellings on the appeal site, but I have considered the proposal on its own

merits as it proposes a different quantum and mix of dwellings.

Conclusion

41. The proposed development would result in significant harm due to its location, effect on landscape character and the recreational and amenity value of the PROW's. The proposal would therefore be contrary to the development plan policies referred to above in this regard as it would see housing built not in accordance with the Council's Growth Strategy and in the SLA which is sensitive to change. The appeal scheme would accord with policies relating to heritage assets and infrastructure provision, but there would be conflict with the development plan as a whole.
42. The appellant has, save for draft planning conditions concerning matters subject of the s106, confirmed that the remaining suggested planning conditions are acceptable. Be as that may, they do not overcome the harm that I have identified as they would inform how the development of the site could technically be brought forward.
43. Setting aside the stand-alone assessment relating to heritage assets, there would be limited benefits from the car park / drop off facility, the open space and scout hut, and the proposal's housing contribution. There would be a substantial benefit in favour of the proposal from the provision of self-build and custom-build housing given the Framework's objective and the duty of the Act to meet the demand for such types of house. However, these considerations, including the provisions of the Framework, do not outweigh the scheme's conflict with the development plan.
44. For the reasons set out above, I conclude that the appeal is dismissed.

Mr Andrew McGlone

INSPECTOR